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Illinois Register

Rules of Governmental Agencies

Volume 23, Issue 01—January 04, 1999

Pages 1 – 371

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ISSUES INDEX I-1

Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April 17, 1998 - Issue 16: Through	March 31, 1998
July 17, 1998 - Issue 29: Through	June 30, 1998
October 16, 1998 - Issue 42: Through	September 30, 1998
January 15, 1999 - Issue 3: Through	December 31, 1998 (Annual)

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Certification of Alternative Retail Electric Suppliers
- 2) Code Citation: 83 Ill. Adm. Code 451
- 3) Section Numbers:
- | | |
|---------|-------------------------|
| 451.10 | <u>Proposed Action:</u> |
| 451.20 | New Section |
| 451.30 | New Section |
| 451.40 | New Section |
| 451.100 | New Section |
| 451.110 | New Section |
| 451.120 | New Section |
| 451.130 | New Section |
| 451.140 | New Section |
| 451.150 | New Section |
| 451.160 | New Section |
- 4) Statutory Authority: Implementing and authorized by Section 16-115 of the Public Utilities Act (220 ILCS 5/16-115).
- 5) A Complete Description of the Subjects and Issues Involved: Section 16-115(f) of the Public Utilities Act states in relevant part:

The Commission shall have the authority to promulgate rules and regulations to carry out the provisions of this Section. On or before May 1, 1999, the Commission shall adopt a rule or rules applicable to the certification of those alternative retail electric suppliers that seek to serve only nonresidential retail customers with maximum electrical demands of one megawatt or more which shall provide for (i) expedited and streamlined procedures for certification of such alternative retail electric suppliers and (ii) specific criteria which, if met by any such alternative retail electric supplier, shall constitute the demonstration of technical, financial and managerial resources and abilities to provide service required by subsection (d) (1) of this Section....

With this rulemaking, the Commission has proposed rules that will establish a procedure for certifying the subject alternative retail electric suppliers and the criteria that will allow for expedited treatment of the applications.

- 6) Will these proposed Rules replace emergency Rules currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed rules contain incorporations by reference? Yes

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NOTICE OF PROPOSED RULES

- 9) Are there any other proposed rules pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed rules neither create nor expand any State mandate on units of local government, school districts, or community college districts.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed with:
- Donna M. Caton
Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 13280
Springfield, IL 62794-9280
(217) 782-7434
- Comments should be filed with the Chief Clerk within 45 days after the date of this issue of the *Illinois Register*.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: These proposed rules will affect any subject alternative retail electric supplier that is also a small business as defined in the Illinois Administrative Procedure Act.

B) Reporting, bookkeeping or other procedures required for compliance: Filing procedures

C) Types of professional skills necessary for compliance: Managerial skills

13) Regulatory Agenda on which this rulemaking was summarized: These rules were not included on either of the 2 most recent agendas because: The Commission did not foresee the need for these rules.

The full text of the Proposed Rules begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

TITLE 83: PUBLIC UTILITIES
CHAPTER 1: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIES

PART 451

CERTIFICATION OF ALTERNATIVE RETAIL ELECTRIC SUPPLIERS

SUBPART A: GENERAL PROVISIONS

Section

- 451.10 Definitions
451.20 Requirements for All Applicants under Section 16-115(d) of the Act
451.30 Required Filings and Procedures
451.40 Customer Records and Information

SUBPART B: EXPEDITED PROCEDURES FOR APPLICANTS WHO SEEK TO
SERVE ONLY NONRESIDENTIAL CUSTOMERS WITH MAXIMUM ELECTRICAL
DEMANDS OF ONE MEGAWATT OR MORE

Section

- 451.100 Applicability of Subpart B
451.110 Financial Qualifications
451.120 Technical Qualifications
451.130 Managerial Qualifications
451.140 Qualifications of Agents and Contractors
451.150 Commission Order in Expedited Proceedings
451.160 Confidential Documentation

AUTHORITY: Implementing and authorized by Section 16-115 of the Public Utilities Act [220 ILCS 5/16-115].

SOURCE: Adopted at 23 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 451.10 Definitions

"Act" means the Public Utilities Act [220 ILCS 5].

"Alternative retail electric supplier" or "ARES" means the same as the term is defined in Section 16-102 of the Act [220 ILCS 5/16-102].

"Applicant" means an entity that files an application with the Illinois Commerce Commission to provide electric service as an alternative retail electric supplier under Section 16-115 of the Act [220 ILCS 5/16-115].

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

"Business enterprise" means a commercial enterprise or establishment.

"Commission" means the Illinois Commerce Commission.

"Electric service facilities" means electric generating property, plant, or equipment and all related property, plant, or equipment needed to provide electric energy and power to customers.

"Management position" means an employed position whereby an individual is responsible for directing, supervising, or administering the activities of a group of two or more people with fiscal responsibility and authority over that group.

"Retail customer", as used in this Part, means the same as the term is defined in Section 16-102 of the Act.

"Small commercial retail customer" means the same as the term is defined in Section 16-102 of the Act.

"Technical staff" means a staff of trained technical experts in electric power and energy supply, including persons who have completed an accredited or otherwise recognized apprenticeship program or a formal education program and persons who possess no less than four years of experience working in a similar position with a utility, ARES or related business. This shall also include those persons registered as professional engineers as required by the Professional Engineering Practice Act of 1989 [225 ILCS 325].

Section 451.20 Requirements for All Applicants under Section 16-115(d) of the Act

Each applicant, except electric cooperatives or municipal systems making an election under Section 17-300 of the Act [220 ILCS 5/17-300] to become an ARES, for certification as an ARES must include with its application the following items, as required by Section 16-115(d) of the Act:

- a) The applicant shall certify that it will comply with all applicable Federal, State, regional and industry rules, policies, practices, procedures and tariffs for the use, operation, maintenance, safety, integrity, and reliability of the interconnected electric transmission system (including the rules and operating guidelines and procedures of the regional or national electric reliability council(s) or organization(s) and their successors for any portion of the state in which the applicant is certified to provide retail electric service and the OASIS reservation process) and shall agree to submit good faith schedules of transmission and energy in accordance with applicable tariffs.
- b) The applicant shall certify that it will provide service only to retail customers that are eligible to take delivery services.

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- c) The applicant shall certify that it will comply with informational and reporting requirements that the Commission may by rule establish.
- d) The applicant shall certify that it will comply with informational and reporting requirements that the Commission may establish regarding the provision of information required by Section 16-112 of the Act (220 ILCS 5/16-112). Any data related to contracts for the purchase and sale of electric power and energy shall be made available for review by the Staff of the Commission on a confidential and proprietary basis and only to the extent and for the purposes that the Commission determines are reasonably necessary in order to carry out the purposes of this Act.
- e) The applicant shall certify that it complies with the requirements of Section 16-115(d)(5) and that it will remain in compliance with such requirements and will annually certify such compliance with such requirements within 30 days after the anniversary date of its certification. The applicant shall provide the following:

- 1) Applicant's name and street address.
- 2) Applicant's Federal Employer Identification Number (FEIN).
- 3) Names and addresses of all of the applicant's affiliated companies.

f) The applicant shall demonstrate that:

- 1) The applicant is licensed to do business in the State of Illinois; and
 - 2) The employees of the applicant that will be installing, operating, and maintaining generation, transmission, or distribution facilities within the State of Illinois, or any entity with which the applicant has contracted to perform those functions within the State of Illinois, have the requisite knowledge, skills, and competence to perform those functions in a safe and responsible manner in order to provide safe and reliable service in accordance with the criteria stated in Section 16-128(a) of the Act (220 ILCS 5/16-128(a)).
- g) The applicant shall certify compliance with all other applicable laws and regulations and Commission rules and orders.

Section 451.30 Required Filings and Procedures

- a) The applicant shall publish notice of its application for certification in the Official State Newspaper within 10 days following the filing of the application for certification. The applicant will file proof of publication with the Clerk of the Commission when notice publication has been accomplished.
- b) All applications for certification under this Part shall be verified as required by Section 200.130 of the Commission's "Rules of Practice" (83 Ill. Adm. Code 200.130).
- c) The applicant shall identify the geographic area or geographic areas in which the applicant seeks to be authorized to offer service and the types of services it intends to offer. The applicant shall provide the

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NOTICE OF PROPOSED RULES

following:

- 1) Description of the Applicant's business.
 - 2) Description of the characteristics of customer group(s) applicant proposes to serve.
- d) Itemized filing requirements
- 1) At the time an ARES files an application for certification under this Part, the applicant shall also file its direct testimony, supporting documents, and exhibits containing information showing that the applicant meets the requirements of Section 16-115 of the Act (220 ILCS 5/16-115).
 - 2) The applicant shall certify compliance with all terms and conditions required by Section 16-115A(a) of the Act (220 ILCS 5/16-115A(a)).
 - 3) The applicant shall certify compliance with all terms and conditions required by Section 16-115A(b) of the Act (220 ILCS 5/16-115A(b)).
 - 4) The applicant shall certify compliance with all terms and conditions required by Section 16-115A(f) of the Act (220 ILCS 5/16-115A(f)).
 - 5) The applicant shall demonstrate that it meets the requirements of and shall comply with Section 16-128(c) and (d) of the Act (220 ILCS 5/16-128(c) and (d)).
 - 6) The applicant shall certify compliance with all terms and conditions required by Section 16-119 of the Act (220 ILCS 5/16-119).
 - 7) The applicant shall certify compliance with all terms and conditions required by Section 16-123 of the Act (220 ILCS 5/16-123).
 - 8) The applicant shall certify compliance with all terms and conditions required by Section 16-125 of the Act (220 ILCS 5/16-125).
 - 9) The applicant shall certify compliance with all terms and conditions required by Section 16-127 of the Act (220 ILCS 5/16-127).
- e) Contents of documents shall be consistent with Subpart B of the Commission's "Rules of Practice" (83 Ill. Adm. Code 200: Subpart B).

Section 451.40 Customer Records and Information

- a) The applicant shall agree to adopt and follow rules and procedures ensuring that authorizations received from customers, customer billing records, and requests for delivery service transmitted to utilities are retained for a period of not less than two calendar years after the calendar year in which they were created. In addition to other lawful means of discovery, these records shall be made available by request to the Commission or its Staff on a confidential and proprietary basis, as necessary to carry out the Commission's obligations under the Act.

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NOTICE OF PROPOSED RULES

- b) The applicant shall agree to adopt and follow rules and procedures to preserve the confidentiality of its customer's data.

SUBPART B: EXPEDITED PROCEDURES FOR APPLICANTS WHO SEEK TO
SERVE ONLY NONRESIDENTIAL CUSTOMERS WITH MAXIMUM ELECTRICAL
DEMANDS OF ONE MEGAWATT OR MORE

Section 451.100 Applicability of Subpart B

This Subpart shall apply only to the expedited certification of all alternative retail electric suppliers that seek to serve only nonresidential retail customers with maximum electrical demands of one megawatt or more as required by Section 16-115(c) of the Act [220 ILCS 5/16-115(f)] to the extent as noted. The requirements of this Subpart are in addition to the requirements of Subpart A. This Subpart does not apply to electric cooperatives or municipal systems making an election under Section 17-300 of the Act [220 ILCS 5/17-300] to become an alternative retail electric supplier seeking expedited certification to serve only nonresidential retail customers with maximum electrical demands of one megawatt or more.

Section 451.110 Financial Qualifications

- a) Requirements Applicable to All Subpart B Applicants:

- 1) The applicant shall execute and maintain a bond issued by a surety company authorized to transact business in the State of Illinois in favor of the People of the State of Illinois in the amount of \$30,000. The bond shall be conditioned upon the full and faithful performance of all duties and obligations of the applicant as an ARES. The cost of the bond shall be paid by the applicant. The applicant shall provide a copy of this bond as part of its application for certification.
- 2) The applicant must establish and maintain sufficient financial ability and resources to satisfy the obligation to remit to utilities monies that the ARES collects under single billing tariffs adopted pursuant to Section 16-108(b) of the Act [220 ILCS 5/16-108(b)]. The applicant may demonstrate this creditworthiness in one of four ways:

- A) The applicant may undertake to post and maintain a bond or bonds issued by a surety or financial institution chartered by the United States or the State of Illinois in favor of any Illinois utility in whose service territory the applicant will serve retail customers in an amount equal to 15% of a good faith estimate of the total amount that the applicant expects to be obligated to pay to the utility under single billing tariffs adopted pursuant to Section 16-118(b) of the Act [220 ILCS 5/16-118(b)] during the next twelve months. The applicant shall provide a copy of the bonding agreement(s) and the bond(s) with its application for

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certification. The bond(s) shall be conditioned on the full and timely payment of all amounts due to the utility in accordance with the terms specified in the single billing tariffs. If the applicant is certified as an ARES, the bond(s) shall be posted with the utility within 10 days, and a replacement bond, in the amount specified above, shall be filed with the Commission every three months thereafter.

- B) The applicant may deliver an irrevocable letter of credit issued by a financial institution with a long-term obligation rating of A- or higher from Moody's Investors Service or its successor, A3 or higher from Moody's Investors Service or its successor, A- or higher from Duff & Phelps or its successor, or A- or higher from Fitch IBCA or its successor in the same amount and in favor of the same parties as the bond that would otherwise be required. The letter of credit shall provide that a draft will be honored in accordance with the terms specified in the single billing tariffs. The initial letter shall be valid for a period of not less than one year after the date on which the applicant begins business as an ARES, and it shall be renewed or replaced thereafter every three months so long as the ARES remains certified. The proposed form of the letter of credit shall be filed with the application.
- C) The applicant maintains at least two of the following commercial paper ratings: A-2 or higher from Standard & Poor's or its successor, P-2 or higher from Moody's Investors Service or its successor, D-2 or higher from Duff & Phelps or its successor, or F-2 or higher from Fitch IBCA or its successor; or at least two of the following long-term bond ratings: BBB- or higher from Standard & Poor's or its successor, Ba3 or higher from Moody's Investors Service or its successor, BBB- or higher from Duff & Phelps or its successor, or BBB- or higher from Fitch IBCA or its successor. The applicant shall provide with its application a copy of the ratings report that present these ratings, and shall file an updated ratings report with the Clerk of the Commission not less than once every three months.
- D) The obligations of the applicant to Illinois utilities have been unconditionally guaranteed by an affiliate of the applicant that maintains at least two of the following commercial paper ratings: A-2 or higher from Standard & Poor's or its successor, P-2 or higher from Moody's Investors Service or its successor, D-2 or higher from Duff & Phelps or its successor or F-2 or higher from Fitch IBCA or its successor; or at least two of the following long-term bond ratings: BBB- from Standard & Poor's or its successor, Ba3 or higher from Moody's Investors Service or its successor, BBB- or higher from Duff & Phelps or its

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successor, or BBB- from Fitch IBCA or its successor. The applicant shall provide with its application a copy of the ratings report that presents these ratings of the affiliate, and a copy of the guarantee, and shall file an updated ratings report with the Clerk of the Commission not less than once every three months.

b) An applicant seeking to provide electric power and energy that it generates with property, plant, and equipment that it owns, controls or operates. In addition to meeting the requirement described in subsection (a), the applicant shall be deemed to possess sufficient financial resources to be certified as an ARES able to serve only nonresidential retail customers with maximum electrical demands of one megawatt or more if it meets any of the following criteria:

1) The applicant maintains at least one of the following: commercial paper ratings: A-2 or higher from Standard & Poor's or its successor, P-2 or higher from Moody's Investors Service or its successor, D-2 or higher from Duff & Phelps or its successor, or F-2 or higher from Fitch IBCA or its successor; or at least one of the following long-term bond ratings: BBB- or higher from Standard & Poor's or its successor, Baa3 or higher from Moody's Investors Service or its successor, BBB- or higher from Duff & Phelps or its successor, or BBB- or higher from Fitch IBCA or its successor. The applicant shall provide with its application a copy of the ratings reports that present these ratings.

2) The applicant has a borrowing agreement with an affiliate that has at least one of the following commercial paper ratings: A-2 or higher from Standard & Poor's or its successor, P-2 or higher from Moody's Investors Service or its successor, D-2 or higher from Duff & Phelps or its successor, or F-2 or higher from Fitch IBCA or its successor; or at least one of the following long-term bond ratings: BBB- or higher from Standard & Poor's or its successor, Baa3 or higher from Moody's Investors Service or its successor, BBB- or higher from Duff & Phelps or its successor, or BBB- or higher from Fitch IBCA or its successor. The applicant shall provide a copy of the following:

A) The ratings reports that present the ratings of the affiliate; and

B) The borrowing agreement.

3) The obligations of the applicant have been unconditionally guaranteed by an affiliate of the applicant that maintains at least one of the following commercial paper ratings: A-2 or higher from Standard & Poor's or its successor, P-2 or higher from Moody's Investors Service or its successor, D-2 or higher from Duff & Phelps or its successor, or F-2 or higher from Fitch IBCA or its successor; or at least one of the following long-term bond ratings: BBB- or higher from Standard & Poor's or its successor, Baa3 or higher from Moody's Investors Service or its successor, BBB- or higher from Duff & Phelps or its successor, or

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

BBB- or higher from Fitch IBCA or its successor. The applicant shall provide a copy of the following:

A) The ratings reports that present the ratings of the affiliate; and

B) The guarantee.

4) A line of credit or revolving credit agreement from a financial institution with a long-term obligation rating of A- or higher from Standard & Poor's or its successor, A3 or higher from Moody's Investors Service or its successor, A- or higher from Duff & Phelps or its successor, or A- or higher from Fitch IBCA or its successor in an amount equal to the greater of:

A) The lesser of at least five percent of the amount of revenue for the last 12-month period or at least two percent of the amount of gross plant shown on the applicant's last financial statements that have received an accountant's report, as defined in 17 CFR 210.1-02, 210.2-01 and 210.2-02 as of April 1, 1998, that certifies those financial statements to be free of material misstatement. The applicant shall provide a copy of the following:

i) The line of credit or revolving credit agreement;

ii) The Standard & Poor's, Moody's Investment Service, Duff & Phelps or Fitch IBCA ratings report that presents the debt security rating of the financial institution extending the credit;

iii) Its certified financial statements, as defined in 17 CFR 210.1-02 and 210.3-01 to 210.3-05 as of April 1, 1998; and

iv) The accountant's report, as defined in 17 CFR 210.1-02 and 210.2-02 as of April 1, 1998; or

B) At least two percent of the estimated cost to place the plant, property and equipment in service with which the applicant intends to provide electric power and energy. The applicant shall provide a copy of the following:

i) The estimated cost to place the plant, property and equipment in service; and

ii) A document showing the cost of other generating facilities similar in nature and size to the plant, property and equipment with which the applicant intends to provide electric power and energy; and

iii) A copy of all agreements to provide a line of credit or revolving credit to the applicant.

c) An applicant that does not seek to provide electric power and energy that it generates with property, plant, and equipment that it owns, controls or operates. In addition to meeting the requirement described in subsection (a), the applicant shall be deemed to possess sufficient financial resources to be certified as an ARES to serve only nonresidential retail customers with maximum electrical demands of one megawatt or more if it meets any of the following criteria:

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

- 1) The criterion described in Section 451.110(b)(1).
- 2) The criterion described in Section 451.110(b)(2).
- 3) The criterion described in Section 451.110(b)(3).
- 4) A line of credit or revolving credit agreement from a financial institution with a long-term obligation rating of A- or higher from Standard & Poor's or its successor, A3 or higher from Moody's Investors Service or its successor, A- or higher from Duff & Phelps or its successor, or A- or higher from Fitch IBCA or its successor in an amount equal to at least five percent of the amount of revenue for the last 12-month period shown on the applicant's last financial statements that have received an accountant's report, as defined in 17 CFR 210.1-02, 210.2-01 and 210.2-02 as of April 1, 1998, that certifies those financial statements to be free of material misstatement. The applicant shall provide a copy of the following:
 - A) The line of credit or revolving credit agreement;
 - B) The Standard & Poor's, Moody's Investment Service, Duff & Phelps or Fitch IBCA ratings report that presents the debt security rating of the financial institution extending the credit;
 - C) Its certified financial statements, as defined in 17 CFR 210.1-02 and 210.3-01 to 210.3-05 as of April 1, 1998; and
 - D) The accountant's report, as defined in 17 CFR 210.1-02 and 210.2-02 as of April 1, 1998; or
- d) No incorporation of the Code of Federal Regulations in this Section 451.110 includes any later amendment or edition.

Section 451.120 Technical Qualifications

- a) An applicant that uses electric generation, transmission or distribution facilities that it owns, controls, or operates in serving customers shall be deemed to possess sufficient technical capabilities to serve nonresidential retail customers with maximum electrical demand of one megawatt or more if it maintains a technical staff on duty or on call 24 hours each day to operate and maintain applicant's facilities as needed, and meets the criteria in subsection (b) below.
- b) An applicant shall be deemed to possess sufficient technical capabilities to serve nonresidential retail customers with maximum electrical demands of one megawatt or more if it has staff with two years demonstrated electric sales and two years operational experience and provides, or has arranged to provide, a scheduling facility with 24 hour staffed operation for coordination with control centers of scheduling changes, reserve implementation, curtailment orders, and interruption plan implementation.
- d) The applicant shall include in its application an exhibit containing occupational background information on the persons or agents who are being used to meet the requirements of this Section.

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

Section 451.130 Managerial Qualifications

An applicant shall be deemed to possess sufficient managerial capabilities to serve nonresidential retail customers with maximum electrical demands of one megawatt or more if it has one or more management persons with three or more years of experience in a management position with a business enterprise.

- a) The applicant shall include in its application an exhibit containing occupational background information on the persons or agents who are being used to meet the requirements of this Section.
- b) The applicant shall include in its application an exhibit containing the corporate organizational chart and indicate the position of the persons or agents who are being used to meet the requirements of this Section.

Section 451.140 Qualifications of Agents and Contractors

An applicant may meet the requirements of Sections 451.120 and 451.130 by entering into one or more contracts with others to provide the required services, provided that:

- a) Each agent and contractor on whom the applicant relies to meet Section 451.120 or 451.130 is disclosed in the application;
- b) The applicant shall certify that the agent or contractor will comply with all Sections of Part 451 applicable to the function or functions to be performed by the respective agent or contractor.

Section 451.150 Commission Order in Expedited Proceedings

The Commission shall issue an order granting or denying an application filed under this Subpart B within 45 days after the date on which a complete application has been filed with the Commission, or the date on which the notice of the application's filing is published in the Official State Newspaper, whichever is later.

Section 451.160 Confidential Documentation

If any of the information to be disclosed is privileged or confidential, the applicant should designate which information is privileged and confidential. Such information shall be marked as "confidential" and submitted separately under seal to the Clerk of the Illinois Commerce Commission. The applicant is required to explain why such information is entitled to such protection in a supporting document pursuant to Section 451.30(d)(1). The determination of whether such information is entitled to such protection will be ruled upon by the Commission in conjunction with its determination of the certification.

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) **Heading of the Part:** Administration of the Illinois Community College Act
 2) **Code Citation:** 23 Ill. Adm. Code 1501

3) **Section Number:** Proposed Action:

- 1501.201 Amendment
 1501.309 Amendment
 1501.505 Amendment
 1501.510 Amendment
 1501.603 Amendment

- 4) **Statutory Authority:** 110 ILCS 805/2-12 (Powers and Duties of State Board), 110 ILCS 805/2-11 (Articulation), 110 ILCS 805/6-4 (Variable Rates and Fees), 110 ILCS 805/2-12 (Powers and Duties of State Board), 110 ILCS 805/5-4 (Application to Participate in Program for New Facilities - Priorities - Criteria)

- 5) **A Complete Description of the Subjects and Issues Involved:** The proposed revisions to ICCB rules regarding reporting requirements are needed in order to meet timeframes of the accelerated budget timetable. The proposed revisions to ICCB rules regarding articulation are needed to facilitate the articulation of transfer courses. The proposed revisions to ICCB rules regarding student tuition are needed to pursue modifications to out-of-district and out-of-State tuition rates resulting from recommendations made by the ICCB Finance Advisory Committee. The proposed revisions to ICCB rules regarding reporting requirements are needed in order to meet timeframes of the accelerated budget timetable. The proposed revisions to the ICCB rules regarding State-funded capital projects are needed in order to address criteria utilized by the ICCB in determining priority rankings for capital projects recommended for State funding.

- 6) **Will these proposed amendments replace emergency rules currently in effect?** No

- 7) **Does this rulemaking contain an automatic repeal date?** No

- 8) **Do these proposed amendment contain incorporations by reference?** No

- 9) **Are there any other proposed amendments pending on this Part?** No

- 10) **Statement of Statewide Policy Objectives (if applicable):** Not applicable

- 11) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:** Interested persons may submit written comments to:

Jill O'Shea
 Director for Governmental Relations

ILLINOIS COMMUNITY COLLEGE BOARD

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Illinois Community College Board
 509 South Sixth Street, Suite 400
 Springfield, Illinois 62701-1874
 217/785-0213

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

12) **Initial Regulatory Flexibility Analysis:**

- A) **Types of small businesses, small municipalities and not for profit corporations affected:** None
 B) **Reporting, bookkeeping or other procedures required for compliance:** None

- C) **Types of professional skills necessary for compliance:** None

- 13) **Regulatory Agenda on which this rulemaking was summarized:** This rule was not included on either of the 2 most recent agendas because: NO Regulatory Agenda was submitted by the ICCB for 1998

The full text of the Proposed Amendments begins on the next page:

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER VII: ILLINOIS COMMUNITY COLLEGE BOARD

PART 1501

ADMINISTRATION OF THE ILLINOIS PUBLIC COMMUNITY COLLEGE ACT

SUBPART A: ILLINOIS COMMUNITY COLLEGE BOARD ADMINISTRATION

Section	
1501.101	Definition of Terms
1501.102	Advisory Groups
1501.103	Rule Adoption (Recodified)
1501.104	Manuals
1501.105	Advisory Opinions
1501.106	Executive Director
1501.107	Information Request (Recodified)
1501.108	Organization of ICB (Recodified)
1501.109	Appearance at ICB Meetings
1501.110	Appeal Procedure
1501.111	Reporting Requirements (Repealed)
1501.112	Certification of Organization (Repealed)
1501.113	Administration of Detachments and Subsequent Annexations
1501.114	Recognition

SUBPART B: LOCAL DISTRICT ADMINISTRATION

Section	
1501.201	Reporting Requirements
1501.202	Certification of Organization
1501.203	Delineation of Responsibilities
1501.204	Maintenance of Documents or Information
1501.205	Recognition Standards (Repealed)

SUBPART C: PROGRAMS

Section	
1501.301	Definition of Terms
1501.302	Units of Instruction, Research, and Public Service
1501.303	Program Requirements
1501.304	Statewide and Regional Planning
1501.305	College, Branch, Campus, and Extension Centers
1501.306	State or Federal Institutions (Repealed)
1501.307	Cooperative Agreements and Contracts
1501.308	Reporting Requirements
1501.309	Course Classification and Applicability

SUBPART D: STUDENTS

Section

ILLINOIS COMMUNITY COLLEGE BOARD

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Section	
1501.401	Definition of Terms
1501.402	Admission of Students
1501.403	Student Services
1501.404	Academic Records
1501.405	Student Evaluation
1501.406	Reporting Requirements

SUBPART E: FINANCE

Section	
1501.501	Definition of Terms
1501.502	Financial Planning
1501.503	Audits
1501.504	Budgets
1501.505	Nonresident Student Tuition Calculations
1501.506	Published Financial Statements
1501.507	Credit Hour Grants
1501.508	Special Populations Grants
1501.509	Workforce Preparation Grants
1501.510	Reporting Requirements
1501.511	Chart of Accounts
1501.514	Business Assistance Grants (Repealed)
1501.515	Advanced Technology Equipment Grants
1501.516	Capital Renewal Grants
1501.517	Retirees Health Insurance Grants
1501.518	Uncollectible Debts
1501.520	Lincoln's Challenge Grants
1501.521	Technology Enhancement Grants
1501.522	Deferred Maintenance Grants

SUBPART F: CAPITAL PROJECTS

Section	
1501.601	Definition of Terms
1501.602	Approval of Capital Projects
1501.603	State Funded Capital Projects
1501.604	Locally Funded Capital Projects
1501.605	Project Changes
1501.606	Progress Reports (Repealed)
1501.607	Reporting Requirements
1501.608	Approval of Projects in Section 3-20.3.01 of the Act
1501.609	Completion of Projects Under Section 3-20.3.01 of the Act
1501.610	Demolition of Facilities

SUBPART G: STATE COMMUNITY COLLEGE

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1501.701 Definitions of Terms
 1501.702 Applicability
 1501.703 Recognition
 1501.704 Programs
 1501.705 Finance
 1501.706 Personnel
 1501.707 Facilities

SUBPART H: PERSONNEL

Section
 1501.801 Definition of Terms
 1501.802 Sabbatical Leaves

AUTHORITY: Implementing and authorized by Articles II and III and Section 6-5.3 of the Public Community College Act (110 ILCS 805/Arts. II and III and 6-5.3).

SOURCE: Adopted at 6 Ill. Reg. 14262, effective November 3, 1982; codified at 7 Ill. Reg. 23232; amended at 7 Ill. Reg. 16118, effective November 22, 1983; Sections 1501.103, 1501.107 and 1501.108 reclassified to 2 Ill. Adm. Code 51.75 at 8 Ill. Reg. 6032; amended at 8 Ill. Reg. 14282, effective July 25, 1984; amended at 8 Ill. Reg. 19383, effective September 28, 1984; emergency amendment at 8 Ill. Reg. 22603, effective November 7, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 24299, effective December 5, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3691, effective March 13, 1985; amended at 9 Ill. Reg. 9470, effective June 11, 1985; amended at 9 Ill. Reg. 16813, effective October 21, 1985; amended at 10 Ill. Reg. 3612, effective January 31, 1986; amended at 10 Ill. Reg. 14658, effective August 22, 1986; amended at 11 Ill. Reg. 7606, effective April 8, 1987; amended at 11 Ill. Reg. 18150, effective October 27, 1987; amended at 12 Ill. Reg. 6660, effective March 25, 1988; amended at 12 Ill. Reg. 15973, effective September 23, 1988; amended at 12 Ill. Reg. 16699, effective September 23, 1988; amended at 12 Ill. Reg. 19691, effective November 15, 1988; amended at 13 Ill. Reg. 1182, effective January 13, 1989; amended at 13 Ill. Reg. 14904, effective September 12, 1989; emergency amendment at 14 Ill. Reg. 299, effective November 9, 1989, for a maximum of 150 days; emergency amendment expired on April 9, 1990; amended at 14 Ill. Reg. 4126, effective March 1, 1990; amended at 14 Ill. Reg. 10762, effective June 25, 1990; amended at 14 Ill. Reg. 11771, effective July 9, 1990; amended at 14 Ill. Reg. 13997, effective August 20, 1990; amended at 15 Ill. Reg. 10929, effective July 11, 1991; amended at 16 Ill. Reg. 12445, effective July 24, 1992; amended at 16 Ill. Reg. 17621, effective November 6, 1992; amended at 17 Ill. Reg. 1853, effective February 2, 1993; amended at 18 Ill. Reg. 4635, effective March 9, 1994; amended at 18 Ill. Reg. 8906, effective June 1, 1994; amended at 19 Ill. Reg. 2299, effective February 14, 1995; amended at 19 Ill. Reg. 2816, effective February 21, 1995; amended at 19 Ill. Reg. 7515, effective May 26, 1995; amended at 21 Ill. Reg. 5891, effective

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April 22, 1997; amended at 22 Ill. Reg. 2087, effective January 12, 1998; amended at 22 Ill. Reg. 17472, effective July 10, 1998; amended at 23 Ill. Reg. _____, effective _____.

SUBPART B: LOCAL DISTRICT ADMINISTRATION

Section 1501.201 Reporting Requirements

Complete and accurate reports shall be submitted by the district/college to the ICCB in accordance with ICCB requirements and on forms provided by the ICCB, where applicable.

Listed below is the schedule of due dates indicating when items from the community colleges are due at the Illinois Community College Board Office:

January 1 - construction project status reports (see Section 1501.607(a))
 January 31 - certificate of tax levy (see Section 1501.510(l))
 - fall fiscal year-to-date unaudited uniform financial reporting system data (see Section 1501.510(h))
 February 15 - spring semester enrollment survey (see Section 1501.406(a))
 May 30 - occupational follow-up study data for specified curricula (FS) (see Section 1501.406(c))
 July 1 - annual noncredit course enrollment survey (see Section 1501.406(e)) Resource Allocation and Management Plan (RAMP/CC) (see Section 1501.510(b))
 July 31 - Spring fiscal year-to-date unaudited uniform financial reporting system data (see Section 1501.510(a))
 August 1 - workforce-preparation--grant-report---(see Section 1501.509(f))
 -- advanced-technology--equipment--grant-report (see Section 1501.515(d))
 -- Resource-Allocation-and---Management---Plan (RAMP/CC)-(see Section 1501.510(b))
 - program review report (see Section 1501.303(d))

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- program review listing (see Section 1501.303(d))
- credit--hour--certification--final--report--(see Section-2-16-of-the-Public-Community-College Act)
- annual student enrollment and completion data (see Section 1501.406(a))
- = square footage and acreage (facility information) (see Section 1501.510(c))
- special initiative grants report (see Section 1501.519(d))
- application for recognition for specified colleges (see Section 1501.202(d))
- underrepresented groups report/special populations--grant--report (see Sections 1501.406(d) and 1501.508(f))
- = unit cost data (see Section 1501.510(d))
- = budget survey (see Section 1501.510(e))
- = unit cost data (see Section 1501.510(f))
- confirmation of--IGCB--grants--and--district credit--hours--by--the--external--auditor--(see Section-1501-503(f))
- summer--fiscal--year-to-date--unaudited--uniform financial--reporting--system--data--(see--Section 1501-510(d))
- budget--survey--(see--Section-1501-503(e))
- fall enrollment survey (see Section 1501.406(b))
- fall enrollment data (see Section 1501.406(a))
- faculty, staff and salary data (see Section 1501.308(a))
- external audit (see Section 1501.503(a))
- = special initiative grants audit (see Section 1501.503(a))
- special--populations--grant--audit--(see--Section 1501-503(f))
- workforce--preparation--grant--audit--(see--Section-1501-503(f))
- advanced--technology--equipment--grant--audit (see--Section-1501-503(f))
- fiscal year budget (see Section 1501.504)
- certificate of chargeback (see Section 1501.503(a))

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- unexpended--special--populations--grant--funds (see--Section-1501-508(f))
- unexpended--workforce--preparation--grant--funds (see--Section-1501-508(f))
- annual fiscal year audited uniform financial reporting system data (see Section 1501.510(f))
- = audit/unit cost reconciliation statement (see Section 1501.510(g))
- = unexpended special initiative grant funds (see Section 1501.519(e))
- November-1-----
- audit/unit--cost--reconciliation--statement--(see Section-1501-510(g))
- December 1 - annual financial statements and notice of publication (see Section 1501.506)
- 20 days after the end of each term - course resource data and credit claims (see Section 1501.606(b) and Section 1501.507(a))
- 60 days after the end of the fall term - inventory of facilities (see Section 1501.606(c))
- (Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART C: PROGRAMS

Section 1501.309 Course Classification and Applicability

- a) Course Classification. Information on courses for which credit is to be awarded shall be submitted to ICCB on forms provided by ICCB in order for the courses to be classified into appropriate instructional and funding categories and added to the college's Management Information System (MIS) Course Master File.
- b) Course Credit Hour Determination.
 - 1) Credit hours for courses for which ICCB credit hour grants are to be claimed shall be determined on the basis of an expected forty-five (45) hours of combined classroom/laboratory and study time for each semester hour or thirty (30) hours of such time for each quarter credit hour.
 - 2) Courses with students participating in lecture/discussion oriented instruction will be assigned one semester credit hour or equivalent for each fifteen (15) classroom contact hours of instruction per semester or equivalent. It is assumed that two four (4) hours of outside study will be invested for each classroom contact hour.
 - 3) Courses in which students participate in

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laboratory/clinical-laboratory oriented instruction will be assigned one (1) semester credit hour or equivalent for each 30-45 classroom contact hours of instruction per semester or equivalent. It is assumed that one (1) hour of outside study will be invested for each two (2) laboratory contact hours.

- 4) Students who participate in nonclinical internship, practicum, or on-the-job supervised instruction shall receive one (1) semester credit hour or equivalent for each 75-149 contact hours per semester or equivalent and students who participate in clinical practicum shall receive one semester hour credit or equivalent for each 30-60 contact hours per semester or equivalent. It is assumed that one (1) hour of outside study time will be invested from each two (2) clinical practicum contact hours.

- c) Course Syllabus. A syllabus shall be developed and maintained for each credit course and shall be available to the public and students upon request. A syllabus contains the description of the course, specific objectives of the course, a topical outline, and the method for evaluating student performance.

- d) Course Applicability. All credit courses must be part of an approved unit of instruction (pursuant to Section 1501.302), and the approved course of instruction for each course shall be indicated on the college's ICCB MIS Course Master File.

- 1) Lower-division Baccalaureate Courses. Courses designed to meet lower-division baccalaureate degree requirements shall be applicable to associate transfer degrees. For each baccalaureate course offered, the college shall either obtain approval for the course to be listed as a Statewide articulated transfer course by a general education or baccalaureate major panel of the Illinois Articulation Initiative or maintain current written articulation agreements or transfer equivalency documents with:

- A) at least three (3) Illinois public universities, or
- B) at least three baccalaureate degree-granting institutions to which a majority (51%) of the college's students transfer,

- or
- C) one or more baccalaureate degree-granting institutions to which a majority (51%) of the college's students, majoring in the field for which the course is required, transfer.

- 2) Remedial Course Credit. No remedial course credit shall be applicable to associate degrees designed for transfer to institutions granting baccalaureate degrees.

- 3) Adult Basic Education Course Credit. No adult basic education course credit is applicable to degrees or to certificates, except the Adult Basic Education Certificate.

- 4) Adult Secondary Education Course Credit. No adult secondary or college preparatory education course credit is applicable to degrees or certificates, except the Adult Secondary Education Certificate.

- 5) General Studies Course Credit. General studies course credit is

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applicable only to the Personal Development; Homemaking; Improving Family Circumstances; Intellectual and Cultural Studies; Community and Civic Development; and Health, Safety and Environment Certificates.

- e) Special Upper-Division Courses.

- 1) A college may offer any course that is offered by a university, regardless of numbering system, if the university normally permits its own students to take the course as lower-division students. Such courses will be eligible for ICCB grants, if they meet all other criteria.

- 2) If at least three (3) public universities in Illinois agree, or if a public university which is the principal recipient of transfers from the community college agrees, certain special courses taught at the upper-division level may be offered by a college and be eligible for ICCB grants, provided they meet all other criteria.

- f) Independent Study. Independent Study course credit shall not exceed 25 percent of the credit hour requirements for a student to earn an associate degree. The topic of an independent study course shall be listed on the student's permanent academic record.

- g) Internships. An internship experience for credit that is designed to provide the student an opportunity to put into practice the theories and techniques learned in the classroom/laboratory shall be applicable to an associate degree or certificate, provided at least twelve (12) semester credit hours or equivalent in the corresponding curriculum are completed by the student prior to, or are taken by the student concurrently with, such experience.

- h) Courses Approved as Repeatable.

- 1) Courses in which the content varies from term to term or from student to student (e.g., independent study, special topics, and internship courses) or in which a student is expected to gain increased depth of knowledge and skill through repetition (e.g., music, speech, theatre, and journalism performance or production courses) shall, at the request of the college, be approved for repeatability under the following conditions:

- A) The number of times the course may be taken for credit does not exceed four semesters (or six quarters);

- B) The method of determining the amount of credit to be awarded for each section of the course, for each term, or for each student is specified in the college's catalog, on the course syllabus, and on the course classification form, and the subject matter and number of credits for which the student enrolled is specified on the student's permanent academic record;

- C) The college's catalog, the course syllabus, and the course classification form requesting approval of repeatability by the ICCB indicate the number of such credits that will apply to degree or certificate completion for a single course or a

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- combination of related courses; and
- D) The total number of credit hours for a single course or for a combination of related courses that are applicable to a degree or certificate completion does not exceed the maximums established in subsection (e) governing independent study, subsection (b) governing credit hour determination, or Section 1501.507(b)(10) governing the maximum rate of credit hour production.
- 2) A vocational skill course that persons employed in an occupation or vocation must retake periodically by law in order to maintain employment shall, at the request of the college, be approved for repeatability under the following conditions:
- The content of the course is determined by law and does not change from one year to the next, and
 - A copy of the law (or regulation administering it) and a course syllabus accompany the course classification form requesting repeatability.
- 3) An adult basic, adult secondary, or a remedial education course that is organized into discrete modules and offered for variable credit shall, at the request of the college, be approved for repeatability under the following conditions:
- No discrete module is repeated more than three times.
 - The title of each module completed and the grade received is permanently recorded on the student's permanent academic record, and
 - The content and number of credit hours for each discrete module is shown on the course syllabus and on the course classification form requesting approval of repeatability by the ICCB.
- 4) An adult basic, adult secondary or a remedial education course that is not organized into discrete modules shall, at the request of the college, be approved for repeatability under the following conditions:
- The number of times the course may be taken for credit does not exceed four times, i.e., repeatable three times.
 - The variety of skill levels included in the course and the methods used to accommodate individual differences based on an assessment of student skills is specified in the course syllabus.
 - The course title and the grade received is permanently recorded on the student's academic record each time that the course is taken.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART E: FINANCE

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Section 1501.505 Nonresident Student Tuition Exemptions

Each community college district will establish its own student tuition rates for in-district residents, in-State out-of-district residents, out-of-State residents, and out-of-country residents in accordance with the State policies prescribed in the Illinois Community College Act and in this Section.

- a) In-District Tuition. The local community college board of trustees may set the tuition rates for in-district residents within the following policies: ~~the depreciation rate used in the out-of-district tuition calculation; for capital expenditures for equipment--and temporary buildings shall be 12.5 percent each year for eight--and for permanent facilities 2 percent each year for fifty--(50) years.~~
- 1) The local community college board of trustees may set tuition rates for its in-district residents, including variable rates for each of its programs, terms, time of enrollment, courses, delivery method, or other identifiable grouping of courses, as long as the weighted average of the tuition for all credit courses, including adult education, is no more than 1/3 the college district's per capita cost. The method of calculating the per capita cost will be as prescribed in the Illinois Community College Act.
- 2) A public community college shall permit senior citizens (as defined in 110 ICS 990/1(c) as persons 65 years or older whose annual household income is less than the threshold amount provided in Section 4 of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act) to enroll without the payment of tuition in regularly scheduled credit courses, other than credit courses designed specifically for senior citizens, provided that available classroom space exists and tuition paying students enrolled constitute the minimum number required for the course.
- b) Out-of-District Tuition. The local community college board of trustees may set the tuition rates for out-of-district residents living within Illinois within the following policies: ~~the foreign student tuition rate shall be the same as out-of-state student tuition rate--as specified in Chapter 122--Section 406.4--of the 1993 Illinois Revised Statutes (110 ICS 906/4-1);~~
- 1) The college will use the calculation for out-of-district tuition for chargeback purposes as prescribed in the Illinois Community College Act. The depreciation rate used in the out-of-district tuition calculation for capital expenditures for equipment and temporary buildings shall be 12.5 percent each year for eight years and for permanent facilities 2 percent each for 50 years.
- 2) The college may use the variable tuition provision in the Illinois Community College Act to set market-driven out-of-district tuition rates for courses offered via internet, correspondence, and other distance learning modes.

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- 3) The college may set the out-of-district tuition rates for adult basic education, adult secondary education, and English as a second language courses within the tuition ranges specified in federal regulations for adult education programs.
- 4) The college may charge in-district tuition to a student who is an out-of-district resident but who is employed for at least 35 hours per week by an entity located in the district or is enrolled in a course that is being provided under terms of a contract for services between the employing entity and the college.
- 5) The college board of trustees may at its option charge in-district tuition to out-of-district residents who are attending an educational institution located within the college district.
- 6) The college may enter into cooperative agreements for instruction with its neighboring districts for any or all of their programs to provide increased access to education for their students and may charge in-district tuition rates for students from any district within the cooperative agreement.
- 7) The college may set the out-of-district tuition rate for all other credit instruction offered by the college at a minimum of 1.5 times the highest in-district tuition rate of any of its neighboring contiguous Illinois community college districts.
- c) Out-of-State Tuition. The local community college board of trustees may set the tuition rates for out-of-State residents within the following policies:
- 1) The college may use the variable tuition provision specified in the Illinois Community College Act to set market-driven out-of-State tuition rates for courses offered via internet, correspondence, and other distance learning modes.
 - 2) The college may set the out-of-State tuition rates for adult basic education, adult secondary education, and English as a second language courses within the tuition ranges specified in federal regulations for adult education programs.
 - 3) The college may charge in-district tuition to a student who is an out-of-State resident but who is employed for at least 35 hours per week by an entity located in the district or is enrolled in a course that is being provided under terms of a contract for services between the employing entity and the college.
 - 4) The community college board of trustees may at its option charge in-district tuition to students who are out-of-State residents but who are attending educational institutions within the college district.
 - 5) The college may set out-of-State tuition rates within interstate agreements for instruction with out-of-State institutions in accordance with the agreement, subject to approval by the ICCB.
 - 6) The college may set out-of-State tuition rates for all other credit instruction offered by the college at a minimum of 1.67

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- d) times its in-district tuition rate.
- d) Out-of-Country Tuition. The local community college board of trustees may set the tuition rates for out-of-country residents using the same policies as for out-of-State residents described in subsection (c) of this Section.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1501.510 Reporting Requirements

Each college shall submit the items listed below in a format prescribed by the ICCB and according to the schedules indicated.

- a) Fiscal year-to-date unaudited uniform financial reporting system data by July 31 for the period July 1 - June 30 of the previous fiscal year.
- b) Resource allocation and management plan (RAMP) data by July August 1 of each year.
- c) Square footage and acreage (facility information) are due August 1.
- d) Unit cost data for the previous fiscal year by September 1 15 following the end of that fiscal year.
- d) Fiscal year-to-date unaudited uniform financial reporting system--data by September 30 for the period July 1--August 31.
- e) A survey of local budget and tax extensions and collections by September October 1 of each year.
- f) Annual fiscal year audited uniform financial reporting system data by October 15 following the end of the previous fiscal year.
- g) An Audit/Unit Cost Reconciliation Statement by October 15 November 1 of each year.
- h) Fiscal year-to-date unaudited uniform financial reporting system data by January 31 for the period July 1 - December 31.
- i) Certificate of Tax Levy by January 31 of each year.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART F: CAPITAL PROJECTS

Section 1501.603 State Funded Capital Projects

- a) Projects Eligible to Receive State Funds. State funds may be requested for capital projects, both those to be purchased and those to be constructed, as defined herein. The funds shall be requested prior to construction and may include or consist of architectural and engineering fees associated with the project. Such projects shall consist of:
 - 1) Buildings, Additions, and/or Structures (including fixed equipment). Types of buildings that may be included are:

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- A) Administration and student personnel services facilities.
 - B) Central utility facilities.
 - C) Classrooms.
 - D) Fine and applied arts classrooms and laboratories.
 - E) Libraries.
 - F) Occupational, technical, and semi-technical laboratories, shops, and classrooms.
 - G) Other structures used for the operation and maintenance of the campus.
 - H) Physical education instructional facilities.
 - I) Science laboratories and related science facilities.
 - J) Student areas appropriate to the needs of a computer institution, including food services, lounge areas, study areas, storage lockers, child care facilities, and facilities for student activities such as newspaper editing and student government.
- 2) Land.
 - 3) Movable Equipment.
 - 4) Utilities (those beyond a five foot perimeter of buildings).
 - 5) Projects include provision for:
 - A) Access for handicapped students.
 - B) Emergency repairs (including construction defects/deficiencies).
 - C) Energy conservation.
 - D) Programmatic changes.
 - 6) Site Improvements.
 - A) Clearance.
 - B) Drainage.
 - C) Earth movement.
 - D) Finish grading, seeding, landscaping.
 - E) Other work required to make land usable as a building site.
 - F) Parking.
 - G) Streets and walkways.
 - 7) Planning. A building project may be divided into sub-projects with planning funds (architect or engineering fees) requested for one fiscal year and construction funds requested in a subsequent year.
- b) Application Criteria for New Construction Projects at the Primary Site. In order for capital projects for new construction to be considered for state funding, the following requirements shall be met:
- 1) The information required under Section 1501.510(a) shall have been submitted.
 - 2) Certification of local board approval of the project(s) requested shall be provided.
 - 3) Certification shall be provided that funds or credits are available to provide the local share of the cost of the project(s) in accordance with Articles IIIA and V of the Act.

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- 4) Certification shall be provided that a suitable construction site is available. Suitability is determined through a site feasibility study and a Capital Development Board technical evaluation. The feasibility study shall address, at a minimum, the following:
 - A) The location of the site in relation to geography and population of the entire district and in relation to sites of the district's other colleges.
 - B) The impact on the surrounding environment, including the effect of increased traffic flow.
 - C) Accessibility to the site by existing and planned highways and/or streets.
 - D) Cost of development of the site in relation to topography, soil condition, and utilities.
 - E) Size of the proposed site in relation to projected student population (as determined by census data) and land cost.
 - F) The number, location, and characteristics (type of terrain, geography, roadway access, and suitability of the site for building purposes) of alternative sites considered.
 - G) The location of the site in relation to existing institutions of higher education.
 - 5) Requests for site acquisition shall include a local board of trustees authorization to purchase the site, a copy of the feasibility study, a local Board of Trustees resolution that local funds are available, a copy of the Capital Development Board evaluation, three appraisals of the property, and a written request for ICB approval in addition to the information requested in the Resource Allocation and Management Plan/Community Colleges (RAMP/CC).
 - 6) Evidence of need for the space requested shall be provided either on a general enrollment basis as specified in subsection Section 1501-1503 (e)(4)(C) of this Section or a specific program need basis as specified in subsection Section 1501-1503 (e)(4)(D) of this Section.
 - 7) The project shall be within the mission of a community college as set forth in Section 1-2(e) of the Act.
- tc) Application Criteria for Remodeling and Rehabilitation Projects. Projects to remodel and rehabilitate a facility shall require submittal of the following:
- 1) An application on forms prescribed by the ICB.
 - 2) Certification of local board approval of the project(s) requested.
 - 3) Certification that funds or credits are available to provide the local share of the project(s) in accordance with Articles IIIA and V of the Act.
 - 4) A summary detailing the effects of the remodeling on space usage (classrooms, laboratories, offices...).
 - 5) A justification statement regarding the need to remodel.

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- d) Application Criteria for Secondary Site Projects. Projects for the acquisition/construction of a new site and/or structure for purposes other than a primary site facility and projects for acquisition of sites and/or structures adjacent to the primary site shall require submittal of the following:

- 1) A resolution by the local board of trustees stating that:
 - A) Local funds or credits are available to provide the local share of the project(s) in accordance with Articles IIA and V of the Act.
 - B) The programs offered have been approved by the ICCB and Illinois Board of Higher Education (IBHE) or approval of these stated programs by those boards is pending.
- 2) Copies of at least two appraisals of the property.
- 3) Verification that the condition of the facility is not a threat to public safety. This shall include tests of structural integrity, asbestos, toxic materials, underground storage tanks, and other hazardous conditions. (Findings regarding the existence of these hazards shall not preclude the procurement of the site/structure but the knowledge of the hazardous condition and any costs incurred in correcting the condition shall be incorporated into the total cost of procuring the facility.)
- 4) Identification of the location of the site and its relationship to the main campus, community college facilities in contiguous districts, and other higher education facilities in contiguous districts.
- 5) Identification of all estimated costs associated with the purchase and any subsequent construction and/or rehabilitation of the site/structure.

- e) Project Priority Criteria. All projects must meet requirements as stated in 110 ILCS 805/5-3 and 5-4. Capital project priorities will be established within the categories named in subsection (a) of this Section according to the following criteria:

- 1) New Facilities: The acquisition of buildings or additions/structures through construction of new facilities or purchase of existing facilities. Includes planning, qualifying fixed and movable equipment as necessary to support the new facility, land acquisition required for the facility, and any site improvements or utility work necessary to support the facility. All requests for new facilities must meet the criteria specified in either subsection (b) of this Section for new construction at a primary site or subsection (d) of this Section for secondary site projects.
- Each of the following criteria will be considered in establishing priorities for new facilities:

- A) Type of space to be constructed (in priority order):
- 1) Instructional, study, office and student areas (all weighted equally):
 - = Instructional space, including basic classrooms,

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- lecture halls, seminar rooms and other rooms used primarily for scheduled instruction, both credit and noncredit. These rooms may contain multimedia or telecommunications equipment. Space utilized as classroom service, i.e., projection rooms, telecommunication control booths, closets, etc., are included (FICM Codes 110-115). Instructional space also includes laboratory facilities, both class and open, used for instructional purposes and service areas that serve as an extension of the activities of the laboratory (FICM Codes 210-255). Study areas, including all library facilities, any rooms or areas used by individuals at their convenience, general learning labs, and any service areas necessary to support the activities of these rooms (FICM Codes 410-455).
- =
- Office facilities that provide work areas to support the academic, administrative, and service functions of the colleges. Also includes rooms such as student counseling rooms and testing areas, staff conference rooms, file rooms, and break rooms (FICM Codes 310-355).
- =
- Student service areas include general use facilities such as child care facilities (FICM Codes 640 and 645), food service facilities (FICM Codes 630 and 635), lounge facilities (FICM Codes 650 and 655), merchandise areas such as bookstores, student supply stores, or ticket outlet services (FICM Codes 660 and 665), and rooms utilized for recreation and amusement (FICM Codes 670 and 675). Meeting rooms used by the institution or the general public for a variety of nonclass meetings also are included (FICM Codes 680 and 685).
- iii) Support areas, including central administrative computer and telecommunications rooms, maintenance shops, garages, warehouses, and storage facilities (FICM Codes 710-765).
- iv) Assembly areas, including theaters, auditoriums, arenas, exhibition rooms, and concert halls, used primarily for general presentations or performances. Includes areas that serve as an extension of the activities in that facility. (FICM Codes 610-625)
- iv) Physical education areas used for physical education instructional programs and intercollegiate and recreational activities. Includes areas such as gymnasias, athletic courts, swimming pools, and other

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- special use athletic facilities. (FICW Codes 520, 523, and 525) (Does not include specific classrooms more appropriately classified under FICW Code series 100.)
- v) Special use facilities not included elsewhere, such as armory, armory services, media production services, clinics, etc. (FICW Codes 510, 515, and 530-590).
- B) Core Campus Considerations. Priorities will be assigned to colleges that do not have adequate core campus components in place. A core campus generally consists of classrooms, laboratories, student services, day care, learning resources/library, business and industry training services and facilities to support high enrollment programmatic areas.
- C) Space Criteria/Considerations.
- i) Utilization of Existing Space. Priorities will be assigned so that the higher utilization rate generated by weekly instructional hours for credit and noncredit courses offered at permanent locations owned by the college (college holds title, lease purchase, or purchasing contract for deed), the higher the priority that will be assigned. Instructional hours are defined as those enrollments generated by students taking credit and noncredit courses.
 - ii) Space per Student. Requests for space will be assigned priorities so that the less existing permanent space per student available at facilities owned by the college (college holds title, lease purchase, or contract for deed), the higher the priority assigned to the project.
- D) Program Considerations. Considerations will be given to the need for special facilities based on the programs to be housed in the requested facilities. Priorities will be assigned so that the greater the need for special facilities, the higher the priority. Criteria evaluated for need will include (not in priority order), but not be limited to:
- i) Documented need as evidenced by the college's accountability and productivity reviews.
 - ii) Labor market demand for completers of the program (as indicated by current manpower data).
 - iii) Unavailability of special facilities needed for the program.
 - iv) Other special needs or measures as described in the program justification statement submitted by the college with the project request.
- 2) Remodeling or Rehabilitation of Existing Facilities. Remodeling or rehabilitation projects will be evaluated on structural consideration and/or programmatic considerations, and core campus

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- considerations, if applicable to project. Requests for remodeling or rehabilitation projects must meet the criteria specified in subsection (c) of this Section. The following criteria will establish the order of remodeling/rehabilitation projects:
- A) Structural Considerations (in priority order).
 - i) Those projects that will reduce physical health and safety hazards to the student body and staff (e.g., structural defects/deficiencies, handicapped modifications).
 - ii) Overall condition of space and/or other structural integrity considerations.
 - iii) Those projects that will result in financial and/or natural resource savings (e.g., energy conservation).
 - iv) Those projects that will result in the development of more efficient utilization of existing space.
 - B) Program Considerations. Consideration will be given to the need for remodeling or rehabilitation of facilities based on the programs to be housed in the facilities. Priorities will be assigned so that the greater the need for remodeling or rehabilitation, the higher the priority. Criteria evaluated for need will include (not in priority order), but not be limited to:
 - i) Documented need as evidenced by the college's accountability and productivity reviews.
 - ii) Labor market demand for completers of the program (as indicated by current manpower data).
 - iii) Unavailability of special facilities needed for the program.
 - iv) Other special needs or measures as described in the program justification statement submitted by the college with the project request.
 - C) Core Campus Considerations. Priorities will be assigned to colleges that demonstrate the need for remodeling or rehabilitation of existing core campus components due to either structural integrity issues or increased demand for services. A core campus generally consists of classrooms, laboratories, student services, day care, learning resources/library, business and industry training services and facilities to support high enrollment programmatic areas.
 - 3) Land. Request for State funds for land purchases not related to new facilities acquisition will be evaluated based on the need to support existing campus facilities and services. Requests must meet applicable criteria specified in subsection (b) of this Section for land purchases at the primary site or subsection (d) of this Section for secondary site projects.
 - 4) Utilities. Utilities projects (beyond a five foot perimeter of

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buildings) not related to new facility acquisition will be evaluated based on the need to support existing campus facilities and services.

- 5) Site Improvements. Site improvements not related to new facilities acquisition will be evaluated in conjunction with the facilities to which they relate and other demonstrated need.

- 6) Additional consideration may be given to the priority ranking of a project if it had previous ICCB approval for planning or construction.

- e) Project-priority-criteria---Capital-project-priorities-will---be established---within-the-categories-named-in-Section-1501-603(f) according-to-the-following-criteria:

- i) Land---Requests-for-state-funding-for-land-will-be-assigned-a

priority-based-on-the-extent-to-which-the-state-has-participated financially-in-acquiring-the-following-acreage:

- A) Up-to-1500-full-time-equivalent-on-campus-day-students--in-the-fall-term-allows-eligibility-for-100-acres.

- B) Between-1500-and-3000-full-time-equivalent-on-campus-day

- C) More-than-3000-full-time-equivalent-on-campus-day--students in-the-fall-term-allows-eligibility-for-250-acres

the-lower-the-amount-of-state-financial-participation-already provided-the-higher-the-priority-of-the-project

- 2) Site Improvements---Requests-for-state-funding-for-parking-areas will-be-assigned-a-priority-based-on-the-extent-to-which-the state-has-previously-participated-financially-in-spaces-for-80 percent-of-full-time-equivalent-faculty-and-staff-and-spaces-for the-following-percentages-of-students:

- A) When-public-transportation-serves-the-college-at-least-every two-(2)-hours-during-the-day-twenty-(20)-percent-of-the fall-term-day-or-evening-headcount-enrollment.

- B) When---public-transportation---serves---the---college---less frequently-fifty-(50)-percent-of-the-fall-term-day-or evening-headcount-enrollment.

- C) When-no-public-transportation-is-available-sixty-five-(65) percent-of-the-fall-term-day-or-evening-headcount enrollment.

the-lower-the-amount-of-state-financial-participation-already provided-the-higher-the-priority-of-the-project

- 3) Other-site-improvements---will-be-assigned---a---priority---in conjunction-with-the-facilities-to-which-they-relate.

- 4) Buildings---additions---and/or---structures---(including-qualifying fixed-equipment-and-planning-funds)---Each-of-the-following criteria---will-be-considered-in-establishing-priorities-of buildings-additions-and/or-structures:

- A) Types-of-space-to-be-constructed-(in-priority-order):

- i) instructional-space-including-basic-classroom laboratories-and-shops--and-preparation-and-storage

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areas:

- iii) Learning---resource---centers---including---libraries audiovisual-centers-and-learning-laboratories;

- iiii) Administrative-and-counseling-offices;

- iv) Student-center-including-food-service-area--ounge area--study-area--storage-lockery-child-care facilities-and-facilities-for-student-activities-such as-newspaper-editing-student-government--and--other student-organizations;

- v) Physical-education-facilities-designed-primarily-for instructional-use;

- vi) Fine-arts-center-including-rehearsal-practice--and studio-facilities;

- vii) Support---facilities---including---maintenance---shops garages-warehouses-and-storage-facilities;

- viii) Theater-and/or-auditorium-facilities;

- ix) Physical-education-facilities-designed-primarily-for spectator-or-recreational-use;

- B) Utilization-of-Existing-Space---Priorities-will-be-assigned so-that-the-higher-the-weekly-on-campus-classroom-and-class laboratory-hours-of-utilization-for-credit-and-non-credit courses-offered-by-the-college-the-higher-the-priority assigned-to-a-requested-project;

- C) Requests-for-space-will-be-assigned-priorities-so-that-the less-existing-permanent-space-per-student-a-facility-has the-higher-the-priority-of-the-project--for-facilities other-than-occupational-program-instructional-shops--the following-amounts-of-space-are-considered-to-be sufficient-for-the-first-1500-on-campus--full-time equivalent-day-student--110-gross-square-feet-(GSP)-per on-campus-full-time-equivalent-day-student--for-the-next 1500-on-campus--full-time-equivalent-day-students--100-GSP per-on-campus--full-time-equivalent-day-student--for--each additional-on-campus--full-time-equivalent-day-student--90 GSP-per-on-campus--full-time-equivalent-day-student--For occupational-program-instructional-shops--140-GSP-per on-campus--full-time-equivalent-day-student-enrollment--in courses-using-such-shops-will-be-considered-sufficient space

- B) Program-Considerations---Consideration-will-be-given-to-the need-for-special-facilities-based-on-the-programs-to-be housed-in-the-requested-facilities---Priorities-will-be assigned-so-that-the-greater-the-need-for-special-facilities the-higher-the-priority---Criteria-for-need-will-be:

- i) Labor-market-demand-for-graduates-of-the-programs-(as indicated-by-current-manpower-data);

- ii) Unavailability-of-special-facilities-needed-for-the program.

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+++ Other special needs as described in the program justification statement submitted by the college with the project request.

- H) ASHRAE 90-90 Energy Conservation in New Building Design (American Society of Heating, Refrigeration, Air Conditioning Engineers, Atlanta, Georgia, 1980).
- I) Any local building codes that may be more restrictive than the codes listed above.

- 5) Remodeling or Rehabilitation of Existing Facilities--The following criteria will establish the order of remodeling/rehabilitation projects in priority order:
- Those projects which will reduce physical health and safety hazards to the general student body and staff (e.g., structural defects/deficiencies);
 - Those projects which will reduce physical health and safety hazards to a limited number of students and/or staff (e.g., handicapped modifications);
 - Those projects which will result in financial and/or natural resource savings (e.g., energy conservation);
 - Those projects which will result in the development of more efficient utilization of existing space;
 - Movable Equipment--Equipment priorities will be the same as those of the projects to which the equipment relates;
 - Utilities--Utilities will be assigned priorities which are the same as those of the projects to which they relate;
 - Additional consideration may be given to the priority ranking of a project if it had previous IECB approval for planning or construction.

f) Construction Standards. The following standards shall be applied in the design and construction of facilities:

- Building Efficiency. Campus-wide building efficiency should be at least 70 percent. However, individual buildings may be below this level if they are high-rise (four or more floors), include a large number of small classrooms and/or labs, or if a large portion of the building is designed for custodial or mechanical purposes to serve the entire campus.

- Facilities Codes. All construction, remodeling, and rehabilitation of facilities shall be in compliance with the following standards:

- Uniform Building Code (International Conference of Building Officials, Whittier, California, 1988) or BOCA Basic/National Building Code, 1987 Edition (Building Officials and Code Administrators International, Inc., Country Club Hills, Illinois).
- BOCA Basic/National Mechanical Code, 1987 Edition (Building Officials and Code Administrators International, Inc., Country Club Hills, Illinois).
- National Electrical Code (National Fire Protection Association, Quincy, Massachusetts, 1988).
- Illinois Plumbing Code (77 Ill. Adm. Code 890).
- Illinois Accessibility Code (71 Ill. Adm. Code 400).
- Fire Prevention and Safety (41 Ill. Adm. Code 100).
- National Fire Protection Association 101 Life Safety Code

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Aid to the Aged, Blind or Disabled

2) Code Citation: 89 Ill. Adm. Code 113

3) Section Numbers: Proposed Action:
113.141 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

5) A Complete Description of the Subjects and Issues Involved:

These proposed amendments coincide with a Department of Public Aid (DPA) rulemaking which was published in the *Illinois Register* on September 18, 1998 at 22 Ill. Reg. 16441. The DPA rulemaking added a new asset exemption which applies to determinations of medical eligibility under the AABD WANG program. That proposal reflected an agreement between the Department of Public Aid (DPA) and the Illinois Funeral Director's Association (IFDA) to establish a \$4,000 exemption for irrevocable prepaid burial trusts with a 3% annual increase.

In accordance, these amendments are being proposed to establish that funds can be specifically and irrevocably set aside for the professional funeral services and burial expenses of the individual and his or her spouse, subject to a limit of \$4,000 each, including prepaid funeral and burial plans. This \$4,000 limit will be increased annually by 3%. This new asset exemption is in addition to the current \$1,500 burial expense exemption and the burial space exemption.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
113.107	Amendment	22 Ill. Reg. 15872
113.111	Amendment	22 Ill. Reg. 15872
113.157	Amendment	22 Ill. Reg. 11266
113.158	New Section	22 Ill. Reg. 11266
113.309	Repeal	22 Ill. Reg. 16131

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking

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does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772
Fax: (217) 557-1547

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Funeral homes and cemetery establishments.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because it was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of Proposed Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES

CHAPTER IV: DEPARTMENT OF HUMAN SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 113

AID TO THE AGED, BLIND OR DISABLED

SUBPART A: GENERAL PROVISIONS

Section

113.1 Description of the Assistance Program
113.5 Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

113.9 Client Cooperation
113.10 Citizenship
113.20 Residence
113.30 Age
113.40 Blind
113.50 Disabled
113.60 Living Arrangement
113.70 Institutional Status
113.80 Social Security Number

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

113.100 Unearned Income
113.101 Budgeting Unearned Income
113.102 Application And/Or Date of Decision
113.103 Initial Receipt of Unearned Income
113.104 Termination of Unearned Income
113.105 Unearned Income In-Kind
113.106 Earned Income
113.107 Lump Sum Payments and Income Tax Refunds
113.108 Protected Income (Repealed)
113.109 Earned Income (Repealed)
113.110 Budgeting Earned Income (Repealed)
113.111 Protected Income
113.112 Earned Income
113.113 Exempt Unearned Income
113.114 Budgeting Earned Income of Applicants Receiving Initial Employment
113.115 Application And/Or Date of Decision

On Date of
Income
of

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113.116 Budgeting Earned Income For Contractual Employees
113.117 Budgeting Earned Income For Non-contractual School Employees
113.118 Termination of Employment
113.120 Exempt Earned Income
113.125 Recognized Employment Expenses
113.130 Income From Work/Study/Training Programs
113.131 Earned Income From Self-Employment
113.132 Earned Income From Roomer and Boarder
113.133 Earned Income From Rental Property
113.134 Earned Income In-Kind
113.139 Payments from the Illinois Department of Children and Family Services
113.140 Assets
113.141 Exempt Assets
113.142 Asset Disregard
113.143 Deferral of Consideration of Assets
113.154 Property Transfers For Applications Filed Prior To October 1, 1989 (Repealed)
113.155 Property Transfers For Applications Filed On Or After October 1, 1989 (Repealed)
113.156 Court Ordered Child Support Payments of Parent/Step-Parent
113.157 Sponsors of Aliens
113.160 Assignment of Medical Support Rights

SUBPART D: PAYMENT AMOUNTS

Section

113.245 Payment Levels for AABD
113.246 Personal Allowance
113.247 Personal Allowance Amounts
113.248 Shelter
113.249 Utilities and Heating Fuel
113.250 Laundry
113.251 Telephone
113.252 Transportation, Lunches, Special Fees
113.253 Allowances for Increase in SSI Benefits
113.254 Nursing Care or Personal Care in Home Not Subject to Licensing
113.255 Sheltered Care in a Licensed Group Care Facility
113.256 Shopping Allowance
113.257 Special Allowances for Blind and Partially Sighted (Blind Only)
113.258 Home Delivered Meals
113.259 AABD Fuel and Utility Allowances By Area
113.260 Sheltered Care Rates
113.261 Cases in Licensed Intermediate Care Facilities, Licensed Skilled Nursing Facilities, DMHDD Facilities and All Other Licensed Medical Facilities

113.262

Meeting the Needs of an Ineligible Dependent with Client's Income

SUBPART E: OTHER PROVISIONS

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Persons who May Be Included in the Assistance Unit

- 113-300 Grandfathered Cases
- 113-301 Interim Assistance (Repealed)
- 113-302 Special Needs Authorizations
- 113-303 Retrospective Budgeting
- 113-304 Budgeting Schedule
- 113-305 Purchase and Repair of Household Furniture (Repealed)
- 113-306 Property Repairs and Maintenance
- 113-307 Excess Shelter Allowance
- 113-308 Limitation on Amount of AABD Assistance to Recipients from Other States
- 113-309 Redetermination of Eligibility
- 113-320 Attorney's Fees for VA Appellants (Repealed)

SUBPART F: INTERIM ASSISTANCE

- 113-400 Description of the Interim Assistance Program
- 113-401 Pending SSI Application (Repealed)
- 113-410 More Likely Than Not Eligible for SSI (Repealed)
- 113-415 Non-Financial Factors of Eligibility (Repealed)
- 113-420 Financial Factors of Eligibility (Repealed)
- 113-425 Payment Levels for Chicago Interim Assistance Cases (Repealed)
- 113-430 Payment Levels for all Interim Assistance Cases Outside Chicago (Repealed)
- 113-435 Medical Eligibility (Repealed)
- 113-440 Attorney's Fees for SSI Applicants (Repealed)
- 113-445 Advocacy Program for Persons Receiving Interim Assistance (Repealed)
- 113-450 Limitation on Amount of Interim Assistance to Recipients from Other States (Repealed)
- 113-500 Attorney's Fees for SSI Appellants (Renumbered)

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; emergency expired January 28, 1979; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6,

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1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 49, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 284, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8054, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, effective August 1, 1983; amended at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, 1984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, 1984; amended at 8 Ill. Reg. 13273, effective July 16, 1984; amended (by Sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill. Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985;

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amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill. Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1985; amended at 9 Ill. Reg. 12806, effective August 9, 1985; amended at 9 Ill. Reg. 15896, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; amended at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867, effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3457, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 6154, effective March 22, 1988; amended at 12 Ill. Reg. 7687, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 9669, effective May 24, 1988; emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 14162, effective August 30, 1988; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3, 1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 15 Ill. Reg. 277, effective January 1, 1991; emergency amendment at 15 Ill. Reg. 1111, effective January 10, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 3291, effective April 1, 1991; amended at 15 Ill. Reg. 5698, effective April 10, 1991; amended at 15 Ill. Reg. 7104, effective April 30, 1991; amended at 15 Ill. Reg. 11142, effective July 22, 1991; amended at 15 Ill. Reg. 11948, effective August 12, 1991; amended at 15 Ill. Reg. 14073, effective September 11, 1991; emergency amendment at 15 Ill. Reg. 15119, effective October 7, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16709, effective November 1, 1991; amended at 16 Ill. Reg. 3466, effective February 20, 1992; amended at 16 Ill. Reg. 9986, effective June 15, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 13641, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14722, effective September 15,

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1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17154, effective November 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17764, effective November 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 827, effective January 15, 1993; amended at 17 Ill. Reg. 2263, effective February 15, 1993; amended at 17 Ill. Reg. 3202, effective February 26, 1993; amended at 17 Ill. Reg. 4322, effective March 22, 1993; amended at 17 Ill. Reg. 6804, effective April 21, 1993; amended at 17 Ill. Reg. 14612, effective August 26, 1993; amended at 18 Ill. Reg. 2018, effective January 21, 1994; amended at 18 Ill. Reg. 7759, effective May 5, 1994; amended at 18 Ill. Reg. 12818, effective August 5, 1994; amended at 19 Ill. Reg. 1052, effective January 26, 1995; amended at 19 Ill. Reg. 6639, effective February 24, 1995; amended at 19 Ill. Reg. 8409, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15034, effective October 17, 1995; amended at 20 Ill. Reg. 858, effective December 29, 1995; emergency amendment at 21 Ill. Reg. 673, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7404, effective May 31, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 22 Ill. Reg. 13642, effective July 15, 1998; emergency amendment at 22 Ill. Reg. 16348, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 18931, effective October 1, 1998; emergency amendment at 22 Ill. Reg. 21750, effective November 24, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 18931, effective October 1, 1998; amended at 23 Ill. Reg. ———, effective ———.

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 113.141 Exempt Assets

- a) The following assets are exempt from consideration in determining eligibility for assistance and the amount of the assistance payment:
- 1) Homestead property.
 - 2) Personal property.
 - A) Personal effects extraordinarily and household goods of reasonable value (reasonable value means the client's equity value in such property does not exceed \$2,000). Wedding and engagement rings and items required due to medical or physical condition.
 - B) Regardless of the value, personal effects and household goods are exempt in determining the amount allowed as the Community Spouse Asset Allowance (as described at 89 Ill. Adm. Code 120-386).
 - 3) Resources (for example, land, buildings, equipment and supplies or tools) necessary for self-support up to \$6,000 of the individual's equity in the income producing property, provided the property produces a net annual income of at least 6% of the excluded equity value of the property. The equity value in excess of \$6,000 is applied toward the asset disregard. If the

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activity produces income less than 6% of the exempt equity due to reasons beyond the individual's control (for example, the individual's illness or crop failure) and there is a reasonable expectation that the individual's activity will increase to produce income equal to 6% of the equity value (for example, the medical prognosis is that the individual is expected to respond to treatment or drought resistance corn will be planted), the property is exempt. If the individual owns more than one piece of property and each produces income, each is looked at to see if the 6% rule is met and then the amount of the individual's equity in all of those properties are totalled to see if the total equity is \$6,000 or less.

- 4) Automobile
 - A) exclude one automobile, regardless of value, used by the client, spouse, or other dependent if:
 - i) it is necessary for employment;
 - ii) it is necessary for the medical treatment of a specific or regular medical problem;
 - iii) it is modified for operation by or transportation of a handicapped person;
 - iv) it is necessary because of factors such as climate, terrain or distance to provide necessary transportation to perform essential daily activities; or
 - v) one vehicle for each spouse is exempt in determining the amount allowed as the Community Spouse Asset Allowance (as described at 89 Ill. Adm. Code 120.386).
 - B) if not excluded in subsection (a)(4)(A) above, exclude one automobile to the extent the fair market value does not exceed \$4500. Apply the excess fair market value toward the asset disregard (see Section 113.142). The Department will determine fair market value in accordance with 89 Ill. Adm. Code 121.57(b)(2)(D)(iv).
 - C) for all other automobiles, apply the equity value (fair market value minus any encumbrance) toward the asset disregard (see Section 113.142).
- 5) Life insurance policies with a total face value of \$1,500 or less and all term life insurance policies. If total face value exceeds \$1,500, the cash surrender value must be counted as a resource.
- b) Burial spaces and funds are exempt as follows:
 - 1) Burial spaces which are intended for the use of the individual, his or her spouse, or any other member of his or her immediate family. Immediate family is defined as an individual's minor and adult children, including adopted children and step-children, an individual's brothers, sisters, parents, adoptive parents, and the spouses of these individuals.
 - 2) Funds set aside for the burial expenses of the individual and his

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or her spouse, subject to a limit of \$1,500 each. This limit will be reduced by the face value of any excluded life insurance policy and the amount of any funds held in an irrevocable trust or other irrevocable arrangement which are available for burial expenses.

- 3) Interest earned on excluded burial funds and appreciation in the value of excluded burial arrangements which occurred the earlier of the date of first SSI eligibility or the date of AARD eligibility, but no earlier than November 1, 1982 (see 20 CFR 416.1221(b)(5)(1989)).
- 4) Funds specifically and irrevocably set aside for the professional funeral services and burial expenses of the individual and his or her spouse, subject to a limit of \$4,000 each, including prepaid funeral and burial plans. This limit will be increased annually by 3%.
- c) Assets necessary for fulfillment of an approved plan for achieving self support.
- d) Trust funds are exempt as follows:
 - 1) The principal of a trust fund only when the instrument establishing the trust specifically states the principal cannot be impaired.
 - 2) The principal of a trust fund established under the Self Sufficiency Trust Fund Program [20 ILCS 1705/21.1].
 - e) Assets excluded by express provision of 20 CFR 416.1236 (1989).
 - f) Donations or benefits from fund raisers held for a seriously ill client provided the client or a responsible relative of the client does not have control (for example, not available to the client or the responsible relative) over the donations or benefits or the disbursement of donations or benefits.
 - g) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one time lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under P.L. 101-201.
 - h) Money received from the Social Security Administration under a Plan to Achieve Self-Support (PASS) and held in a separate account.
 - i) Disaster relief payments provided by federal, state or local government or a disaster assistance organization.
 - j) The amount of earned income tax credit which the client receives as advance payment or as a refund of federal income tax.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Program Description

2) Code Citation: 89 Ill. Adm. Code 676

3) Section Numbers: Proposed Action:

676.10 Amendment
676.20 Amendment
676.30 Amendment
676.40 Amendment
676.100 Repealed
676.110 Amendment
676.120 Amendment
676.130 Amendment
676.140 Amendment
676.150 Amendment
676.200 Amendment
676.310 Amendment

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

5) A Complete Description of the Subjects and Issues involved: The Home Services Program rules are undergoing revisions to update cites, terms and references to match organization of the Department of Human Services. These amendments also include revisions that clarify the employment relationship between the customer and the personal assistant he/she employs. Language has been added to explain the customer's role in hiring, supervising, disciplining, and dismissing a PA. This Section also includes revisions to include the newly approved Waiver for Services to Persons with Brain Injuries by adding and defining four new services.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Chief

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Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield IL 62762
(217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

_____, effective _____.

SUBPART A: GENERAL PROGRAM PROVISIONS

PART 676

PROGRAM DESCRIPTION

SUBPART A: GENERAL PROGRAM PROVISIONS

Section 676.10 Program Purpose and Types

- a) The Department of Human Services (DHS) Home Services Program (HSP) is a Medicaid Waiver Program (42 CFR 440.180) program designed to prevent the unnecessary institutionalization of individuals who may instead be satisfactorily maintained at home at a lesser cost to the State.
- b) The Medicaid Waiver for the State of Illinois is administered by the Illinois Department of Public Aid (DPA), as the State's approved Medicaid agency. The operational responsibility for HSP, with the exception of hearings on ~~revest~~ customer appeals (see 89 Ill. Adm. Code 510), rests with DHS.
- c) Although DHS shall be responsible for ensuring that the funds available under the HSP are administered in accordance with all applicable laws, DHS shall not have control or input in the employment relationship between the customer and the personal assistants.

Case Files (Repealed)

Sharing of Customer Information Between HSP and Other DHS Programs

Documentation of Information

Required Customer Signatures and Information Required to Receive Services Under the HSP

Application by DHS-ORS+ Employees, Individuals Holding Contracts with DHS, DHS-ORS+ Advisory Council Members, Family Members of DHS-ORS+ Employees, or Close Friends of DHS-ORS Employees

Geographic Case Assignment

SUBPART C: VENDOR PAYMENT

Vendor Payment

Reporting and Collection of Misspent Funds

SUBPART D: REFERRAL TO DEPARTMENT ON AGING (DOA) (99a+)

Criteria for Referral to DoA

Disposition of Cases not Appropriate for Referral to DoA

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5095, effective March 21, 1995; amended at 20 Ill. Reg. 6315, effective April 18, 1996; amended at 21 Ill. Reg. 2678, effective February 7, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 19563, effective October 23, 1998; amended at 23 Ill. Reg.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 676.20 General Program Accessibility

- a) All communications given or sent to a customer shall be in a language, medium, and at a level which the customer can understand.
- b) At any time a non-English print version of any form or document, including the Service Plan ~~WRP~~, is used to meet the customer's needs and is placed in the case file, an English print copy must also be completed by the ~~rehabilitation~~ counselor or Case Manager ~~/instructor~~ and placed with the non-English print version in the case file.
- c) All locations in which customer meetings are held must be accessible for the customer and afford the maximum confidentiality for the customer.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 676.30 Definitions

For the purposes of this Subchapter, unless otherwise stated, the following terms shall have the following meanings.

- a) Activities of Daily Living (ADLs) - those tasks an individual must do, or which an individual must have provided for him/her, in order to prevent institutionalization (i.e., bathing, dressing, shopping, cooking, housekeeping, etc.).
- b) Customer - anyone who:

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- 1) has been referred to HSP for a determination of eligibility for services;
- 2) has applied for services through HSP;
- 3) is receiving services through HSP; or
- 4) has received services through HSP, ~~or~~

5) ~~is a parent, family member, guardian, or duty authorized representative of the individual, as appropriate.~~
 If the customer is unable to satisfy any of his/her obligations under the HSP, including, without limitation, the obligation to serve as the employer of the PA, the customer's parent, family member, guardian, or duly authorized representative may act on behalf of the customer and is included within the definition of "customer", as used throughout this Part.

For purposes of the PA services performed pursuant to the HSP, the customer shall serve as the employer of the PA. In this capacity, the customer is responsible for controlling all aspects of the employment relationship between the customer and the PA, including, without limitation, locating and hiring the PA, training the PA, directing, evaluating and otherwise supervising the work performed by the PA, imposing (where, in the opinion of the customer, it is appropriate or necessary) disciplinary action against the PA, and terminating the employment relationship between the customer and the PA.

- c) Counselor - the DHS-QRS staff person or contractual Case Manager who helps to ensure that the funds available under the HSP are properly distributed in accordance with the Service Plan, any applicable waiver programs, and all applicable laws. ~~For the purposes of this Subchapter, the term counselor shall mean the DHS staff person in the local DHS office who has the responsibility for the day-to-day management of the HSP case and Case Managers for the AIDS/Medicaid Waiver Program.~~

- d) Determination of Need (DON) - the assessment tool used to determine an individual's non-financial eligibility for HSP services based on the individual's impairment and need for care. This form measures the level of risk of institutionalization for the individual.

- e) DHS - Illinois Department of Human Services.

- f) DPA - Illinois Department of Public Aid.

- g) Family - any one related by blood, marriage, or adoption to the individual seeking services through HSP or anyone with whom the individual has a close inter-personal relationship and who resides with the individual.

- h) Family Unit - for the purposes of determining financial eligibility, the number of persons derived when counting the individual seeking services through HSP and the number of persons in the household who are legally responsible for the individual seeking services and for whom the individual seeking services is legally responsible.

- i) HCFA - the Federal Health Care Financing Administration.

- j) HSP - the Home Services Program (HSP) - a State and federally funded

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program designed to allow Illinois residents, who are at risk of unnecessary or premature institutionalization, to receive necessary care and services in their homes, as opposed to being placed in an institution.

- k) Home - a private residence where the customer lives which is not an intermediate care or skilled nursing facility as defined at 77 Ill. Adm. Code 300, or a residential program operated by, or for which funding is provided by, the Illinois Department of Human Services, Office of Mental Health and Office of Developmental Disabilities as defined at 59 Ill. Adm. Code 120. For the purpose of this Subchapter, the term "home" shall include domestic violence shelters as defined in Section 1(c) of the Domestic Violence Shelter Act [20 ILCS 2210/1(c)].
- l) Intermediate Care Facility (ICF) - a nursing facility that provides regular health related care to its residents, as well as those services necessary for safe and adequate living.

m) ~~Individual - the specific person to whom services are provided through HSP.~~

n) Legally Responsible Family Member - a spouse, parent of a child who is 20 years of age or under, or a legal guardian of an individual who is under age 18.

o) Medicaid - the Medicaid program administered by DPA under the Public Aid Code [305 ILCS 5/11].

p) Medicaid Waiver - the waiver allowing HSP to claim federal reimbursement for approved levels of in-home care for individuals who would otherwise be placed in institutions for such care. The Medicaid Waiver is overseen at the federal level by HCFA.

q) Personal Assistant (PA) - an individual employed by the customer to provide through HSP varied services that have been approved by the customer's physician.

r) Personal Assistant Backup Plan - the plan developed by the customer and designed to ensure that the customer receives the necessary care and services under the HSP in the event that his/her regular PA is unavailable or unwilling to perform his/her obligations under the HSP. The customer is responsible for designating the backup personal assistant.

s) Physician - a licensed doctor of medicine (M.D.) or doctor of Osteopathy (D.O.) licensed pursuant to the Medical Practice Act [225 ILCS 60].

t) Prescreening - an assessment to determine an individual's need for institutional care at the ICF or SNF level care, to ensure Medicaid payment for such a placement is appropriate, and the assessment as to whether or not HSP services are an appropriate alternative to institutional care for the individual.

u) Service Cost Maximum (SCM) - the maximum monthly amount which may be expended for HSP services for an eligible individual. This amount is determined based on the individual's DON score and the specific programmatic component of HSP through which the individual is being served.

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- u) Service Plan - specifically, the HMB-SERVICES--PROGRAM--SERVICE--PLAN Home Services Program Service Plan (IL 488-1049), Home Services Program Service Plan Addendum or HMB-SERVICES--PROGRAM--SERVICE--PLAN APPENDUM (IL 488-1050) or the Interim Agreement (IL 488-2344) forms, on which all services to be provided to an individual through HSP are listed.
- v) Services - the necessary tasks provided to an individual, in one or more of the areas listed in Section 676.40 and listed on the individual's Service Plan, through HSP with the intent of preventing the unnecessary institutionalization of the individual.
- w) Skilled Nursing Facility (SNF) - a facility that provides regular and on-going nursing level care to its residents due to the residents' medical conditions, as well as those services necessary for safe and adequate living.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 676.40 Service Description

The following is a listing of the services available through HSP. The service level, combination of services, and amount of services for which a customer an individual is eligible is dependent upon the needs of the customer individual as determined during the determination of eligibility (see See 89 Ill. Adm. Code 681).

- a) Personal Assistant (PA) Services - services provided by an individual employed by under-the-supervision-of the customer. HSP Services provided by a PA must be approved by the customer's physician.
- b) Adult Day Care (ADC) Services - direct care and monitoring of customers in a community-based setting for any portion of a 24-hour day for the purpose of promoting social, physical, and emotional health and well being and offering an alternative to an institutional setting.
- ADC services are provided only when the social, emotional, and physical needs of the customer individual cannot be met in the home through other available services.
- c) Homemaker Services - general support provided by trained and professionally supervised individuals to maintain, strengthen, and safeguard the functioning of an individual in his/her home when no responsible person is available or capable of monitoring such services. Such services include the actual completion of, and the training in, completion of ADUs.
- d) Maintenance Home Health Services - services provided for a customer an individual in his/her home, in accordance with a care plan prescribed or recommended by a physician or other health care professional. These services include three basic categories of care, which are:
- 1) direct health care provided by a registered nurse (RN) and/or a licensed practical nurse (LPN);

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- 2) direct health care provided by a Certified Nurse Aid (CNA) who is supervised by a RN or LPN; and
- 3) in-home therapy, including the areas of physical, occupational and speech therapy.
- e) Home Delivered Meals - prepared food brought to the customer's individual's home. Usually, home delivered meals consist of a hot lunch and a smaller dinner meal that may be refrigerated and eaten later. These services are provided when available and when they are more cost effective than PA services for an eligible individual who has a need for care in the area of meal preparation but who can adequately feed him/herself.
- f) Electronic Home Response Services (EHRS) - a 24-hour per day emergency communication link to assistance outside the customer's individual's home for customers individuals who have no other persons available for assistance should an emergency arise.
- g) Assistive Equipment - items with a useful life of at least one year expressly designed and used by a customer an-individual to increase his/her independence in completion of his/her ADUs. When provided, assistive equipment must result in a current or anticipated decrease in, or the elimination of, any need for assistance from another individual in the completion of ADUs. Assistive equipment may be purchased, rented, or repaired, depending on the needs and anticipated needs of the customer individual.
- h) Environmental Modification - services to physically change the customer's individual's home so that he/she may be more independent in the completion of his/her ADUs. Provision of environmental modification services must result in a decrease in, or elimination of, assistance from another individual in the completion of ADUs.
- i) Respite Services - limited limited PA, Homemaker, and Maintenance Home Health Services provided to a customer an-individual to provide for his/her ADUs during periods of time it is necessary for the family/primary care giver to be absent. Respite services are provided to a customer an-individual to allow the family/primary care giver relief for vacations, rest, errands, family crises and emergency situations. Respite services are provided in the maximum amount of 240 hours per calendar year and are provided regardless of financial need. PON--score-points-for-respite-services-differ-from-those-of regular-HSP-services-(see-89-ill-Adm-Code-679-487)
- j) Day Habilitation Services - assistance provided to a person with a brain injury to assist with the acquisition, retention and improvement in self-help, socialization and adaptive skills. These services are provided in a setting separate from the residence in which the customer is residing.
- k) Pre-Vocational Services - services provided to a person with a brain injury that are aimed at preparing the individual for paid or unpaid employment, but are not job task oriented. Specific services include teaching concepts such as compliance, attendance, task completion, problem solving and safety.

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- 1) Supported Employment Services - services provided to a customer with a brain injury, which consist of paid employment for persons for whom competitive employment is unlikely, who because of his or her disabilities need intensive, ongoing support to perform in a work setting. Supported Employment includes, but is not limited to, activities needed to sustain the customer in supported employment (i.e., supervision and training).
- 2) Behavioral Services - remedial therapies provided to a person with a brain injury to decrease the individual's severe maladaptive behaviors. These services are intended to enable the customer to better manage his or her behavior and therefore be more capable of living independently.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART B: CASE MANAGEMENT

Section 676.100 Case Files (Repealed)

A separate case file will be kept for each individual served through HSP regardless of his/her customer status for any other program of DHS. Each case will have a separate and unique case number.

(Source: Repealed at 23 Ill. Reg. _____, effective _____)

Section 676.110 Sharing of Customer Information Between HSP and Other DHS Programs

- a) All information received by DHS-ORS for the purpose of providing HSP services to a customer an individual shall only be used for such purposes and may not be shared with any other program of DHS unless the individual consents to the release of such information and a release of information is signed by the customer authorizing the release.
- b) No information may be obtained from a case file of another program of DHS by HSP for the purposes of providing services to a customer an individual unless the customer individual consents to the release of such information and a release of information is signed by the customer authorizing the release.

Section 676.120 Documentation of Information

All records and information which may effect the determination of an individual's eligibility, services, or future services must be maintained in the customer's case file.

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(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 676.130 Required Customer Signatures and Information Required to Receive Services Under the HSP

- a) In order to receive services, or continue to receive HSP services, for which DHS-ORS would pay on behalf of the customer, a customer is required to sign all forms, and supply any information required to complete those forms, which are necessary to comply with all applicable State and federal laws or the provisions of the Medicaid Waiver or are necessary to process payments through the Comptroller's Office. An individual receiving PA services must also sign the Customer/Provider Agreement pursuant to 89 Ill. Adm. Code 686.10.
- b) Consistent with its obligation to ensure that the HSP funds are properly distributed, the Department shall have the authority to develop sample forms that may be used as guidance to the customer in the exercise of his/her obligations under the HSP. Except as required by law or specific provisions of the HSP, the customer is not obligated to use such sample forms and may deviate from or alter such sample forms.
- c) A customer employing a personal assistant is required to enter into an Employment Agreement with his/her personal assistant to confirm their understanding of the nature of the employment relationship involved and the extent of control that the customer retains over the services performed by the personal assistant, as prescribed by 89 Ill. Adm. Code 686.10.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 676.140 Application by DHS-ORS Employees, Individuals Holding Contracts with DHS-ORS, DHS-ORS Advisory Council Members, Family Members of DHS-ORS Employees, or Close Friends of DHS-ORS Employees

- a) At any time a DHS-ORS employee, an individual holding a contract with DHS-ORS, a DHS-ORS Advisory Council member, a family member of a DHS-ORS employee, or a close friend of a DHS-ORS employee applies for services from DHS-ORS, and it is brought to the attention of the counselor, the counselor must notify his/her supervisor who shall notify the Home Services Regional Administrator (RA) in writing.
- b) After review of the situation, the Home Services Administration RA shall make assignment of the case to an appropriate staff member to ensure propriety of services.
- c) For the purposes of this Section, "family member" shall mean spouse, sibling, child, parent, parent-in-law, sibling-in-law, or any other blood relative who resides in the household of the employee or

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employee's spouse.

- d) For the purpose of this Section, "close friend" shall mean any individual who has such a relationship with the employee that would cause a conflict of interest or the appearance of impropriety.
- e) Any employee who knows of or suspects that services to another DHS-ORS+ employee, individual who holds a contract with DHS-ORS+ DHS-ORS+ Advisory Council member, family member of a DHS-ORS+ employee, or close friend of a DHS-ORS employee have not been reported as required in subsection (a), above, shall report the situation to his/her immediate supervisor. The immediate supervisor must investigate the situation and take appropriate action. Appropriate action may include reassignment of the case and discipline of the employee violating these requirements if there is evidence the employee knew the individual to be an individual described in subsection (a), above, and failed to report the situation.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 676.150 Geographic Case Assignment

A customer will be served by the office which is assigned the geographic area of the customer's residence. Exceptions to such assignment may be made only with the written approval of the Home Services Program Chief of the Bureau of Field Operations Regional--Administrator--Division Manager--Division of Home Services--or Deputy-Director.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART C: VENDOR PAYMENT

Section 676.200 Vendor Payment

Because HCFA regulations (42 CFR 447.10(d)) prohibit re-assignment of provider claims, no payment will be made directly to any customer of the HSP. In order to ensure that HSP funds are administered properly, no payment ~~to~~ on behalf of any customer, will be made to any vendor unless the services for which the payment is to be made were approved by DHS-HSP. ~~Further~~ No payment, on behalf of any customer, shall be made until after service has been rendered and verified.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART D: REFERRAL TO DEPARTMENT ON AGING DOA (89a)

Section 676.310 Disposition of Cases not Appropriate for Referral to DoA

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Any customer ~~individual~~ not meeting the criteria for referral to DoA stated in Section 676.300 shall have his/her case maintained by DHS and shall continue to receive services through HSP as long as he/she continues to meet the eligibility criteria established by DHS.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Provider Requirements, Type Services, and Rates of Payment

- 2) Code Citation: 89 Ill. Adm. Code 686

- 3) Section Numbers: Proposed Action:

686.1000	New Section
686.1010	New Section
686.1020	New Section
686.1025	New Section
686.1030	New Section
686.1040	New Section
686.1100	New Section
686.1200	New Section
686.1300	New Section
686.1310	New Section
686.1400	New Section
686.1410	New Section

- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

- 5) A Complete Description of the Subjects and Issues Involved: The Office of Rehabilitation Services, Home Services Program rules are being revised to incorporate new language needed to implement the federally approved Medicaid Waiver programs for persons with a brain injury. These amendments include the descriptions and provider requirements and rates of payment for five new services being added to implement the Medicaid Waiver. These new services include Case Management Service Behavioral Services, Day Rehabilitation Services, Prevocational Services and Supported Employment Services. All services are for persons with a brain injury.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This does not affect units of local government.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois

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Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield IL 62762
Telephone number: 217/785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: This rulemaking was not anticipated when the Regulatory agenda was developed.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 686
PROVIDER REQUIREMENTS, TYPE SERVICES, AND RATES OF PAYMENT

SUBPART A: PERSONAL ASSISTANTS

Section
686.10 Personal Assistant (PA) Requirements
686.20 Services Which May Be Provided by a PA
686.30 Annual Review of PA Performance
686.40 Payment for PA Services

SUBPART B: ADULT DAY CARE PROVIDERS

Section
686.100 Adult Day Care (ADC) Provider Requirements
686.110 Services Which Must Be Provided by ADC Providers
686.120 Annual Compliance Review of ADC Providers
686.130 Appeal of Compliance Review for ADC Providers
686.140 Payment for ADC Services

SUBPART C: HOMEMAKER SERVICES

Section
686.200 Homemaker Service Provider Requirements
686.210 Services Which Must Be Provided by Homemaker Agencies
686.220 Annual Compliance Review of Homemaker Agencies
686.230 Appeal of Compliance Review for Homemaker Agencies
686.240 Payment for Homemaker Services
686.250 Financial Report
686.260 Unallowable Costs for Homemaker Service
686.270 Minimum Direct Service Worker Costs for Homemaker Services
686.280 Cost Categories for Homemaker Services

SUBPART D: ELECTRONIC HOME RESPONSE SERVICES

Section
686.300 Electronic Home Response Services (EHRs) Provider Requirements
686.310 Services Which Must Be Provided by EHRs Providers
686.320 Minimum Specifications for EHRs Equipment
686.330 Annual Compliance Review of EHRs Providers
686.340 Appeal of Compliance Review for EHRs Providers
686.350 Rate of Payment for EHRs Services

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SUBPART E: MAINTENANCE HOME HEALTH SERVICE

Section
686.400 Maintenance Home Health Provider Requirements
686.410 Rate of Payment for Maintenance Home Health Services

SUBPART F: HOME DELIVERED MEALS

Section
686.500 Home Delivered Meals Provider Requirements
686.510 Rate of Payment for Home Delivered Meals

SUBPART G: ENVIRONMENTAL MODIFICATION

686.600 Environmental Modification Provider Requirements
686.610 Cost of Environmental Modification
686.620 Permanency of Environmental Modification
686.630 Reason for Denial of Environmental Modification
686.640 Verification of Environmental Modification

SUBPART H: ASSISTIVE EQUIPMENT

Section
686.700 Assistive Equipment Provider Requirements
686.710 Provision of Assistive Equipment
686.720 Verification of Receipt of Assistive Equipment

SUBPART I: RESPITE CARE

Section
686.800 Respite Care Provider Requirements

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

Section
686.900 Program Overview
686.910 Case Management Provider Responsibilities
686.920 Provider Staffing Requirements, Qualifications, and Training
686.930 Monitoring and Liability of Provider
686.940 Provider Compliance Requirements

SUBPART K: CASE MANAGEMENT SERVICES TO PERSONS WITH BRAIN INJURIES

Section
686.1000 Program Overview
686.1010 Case Management Provider Responsibilities
686.1020 Case Manager Staffing Requirements, Qualifications and Training
686.1025 Provisional Case Manager

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586.1030 Monitoring and Liability
586.1040 Provider Compliance Requirements

SUBPART L: BEHAVIORAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section

586.1100 Behavioral Services Provider Requirements
586.1110 Rate of Payment for Behavioral Services

SUBPART M: DAY HABILITATION SERVICES FOR PERSONS WITH BRAIN INJURIES

Section

586.1200 Day Habilitation Services Provider Requirements
586.1210 Rate of Payment for Day Habilitation Services

SUBPART N: PREVOCATIONAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section

586.1300 Prevocational Services Provider Requirements
586.1310 Rate of Payment for Prevocational Services

SUBPART O: SUPPORTED EMPLOYMENT SERVICES FOR PERSONS WITH BRAIN INJURIES

Section

586.1400 Supported Employment Service Provider Requirements
586.1410 Rate of Pay for Supported Employment Services

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5104, effective March 21, 1995; amended at 20 Ill. Reg. 12479, effective August 28, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18945, effective October 1, 1998; amended at 22 Ill. Reg. 19262, effective October 1, 1998; amended at 23 Ill. Reg. _____, effective _____.

SUBPART K: CASE MANAGEMENT SERVICES TO PERSONS WITH BRAIN INJURIESSection 586.1000 Program Overview

The Department of Human Services (DHS) shall enter into agreements with community-based organizations to provide case management to persons diagnosed with brain injuries who are eligible for services provided by the Medicaid Waiver for Persons with a Brain Injury. For geographic areas in Illinois in which case management agencies are not located, case management shall be provided by DHS Home Services counselors.

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(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 586.1010 Case Management Provider Responsibilities

a) Case Managers

1) The Case Manager shall receive referrals from hospitals, other health providers, and other State and local agencies.

2) The Case Manager shall have full responsibility for determining eligibility, including assessment, development of service plans, and arrangement and implementation of services to be provided.

b) The Case Manager shall provide the following services:

- 1) Initial assessment of eligibility and information gathering (89 Ill. Adm. Code 682);
- 2) development of a care plan and implementation (89 Ill. Adm. Code 684);
- 3) reassessment of the level of care at least every three months or at such time when the customer's financial, disabling condition or need for services circumstance changes;
- 4) networking/coordination/brokering services (i.e., referring and assisting the customer in obtaining other agencies' services);
- 5) counseling and advocacy;
- 6) contacting the customer a minimum of three times per month, at least one contact being a face-to-face visit;
- 7) maintaining and updating customer records; and
- 8) monitoring the cost effectiveness of the service plan (89 Ill. Adm. Code 679.50).

c) Eligibility for the Brain Injury Waiver

1) After receipt of a referral, the Case Manager shall complete an individual's eligibility determination for the Medicaid Waiver for Persons with a Brain Injury within the following timeframes:

- A) 2 working days for prescreening referral from cooperating hospitals for interim/emergency services;
- B) 5 working days for all other prescreening for interim/emergency services; and
- C) 10 working days for an eligibility referral.

2) The Case Manager shall determine customer eligibility for the Brain Injured Waiver by completing an assessment from a home visit or while the customer is hospitalized (89 Ill. Adm. Code 682). To determine customer eligibility, the Case Manager will use the HSP Determination of Need Assessment (89 Ill. Adm. Code 682).

3) The Case Manager shall assess the customer's limitations in activities of daily living (ADLs) (e.g., cooking, bathing, shopping) and the resources available to assist the customer in performing the ADLs (89 Ill. Adm. Code 682).

d) The Case Manager will provide a case action notice to each customer informing him or her of the eligibility determination, of all rights

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and responsibilities under the case management program, including the customer's right to request an appeal, the appeals procedures promulgated by the Department, the right to receive assistance in filing the request for appeal and information about the services of the Client Assistance Program (CAP) and how to reach CAP. The determination notice must be mailed to the HSP office within 10 working days after the date on which a completed application is received by the Case Manager.

e) Service Plan

1) If the assessment demonstrates the customer is at risk of unnecessary or premature placement in an institution because of his/her brain injury, the Case Manager shall develop a service plan that will allow the customer to live at home (89 Ill. Adm. Code 684.70).

2) The service plan will be retained during the time the case is opened and for five years after closure, unless an audit exception has occurred. In the case of an audit exception, the service plan will be retained until the audit exception has been resolved. Copies of the service plan will be maintained in the Case Manager's location and the HSP office. Closed cases will be retained in the HSP Central Office.

3) The service plan shall be approved and signed by the customer's physician or neuro-psychologist. If the plan is not approved by the customer's physician or neuro-psychologist, it cannot be implemented and the customer cannot be served under the Brain Injured Waiver.

4) If implementation of services is delayed beyond required time limits in subsection (c) of this Section, the Case Manager must inform the HSP administration and assist the customer in obtaining another provider.

f) Records of contact with customer will be entered and maintained by the Case Manager in the customer's confidential case record. All contacts, oral or written, with or on behalf of a customer shall be documented in a confidential case record. The Case Manager is responsible for obtaining consents for the release of information as necessary and when required by regulation (89 Ill. Adm. Code 505).

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 686.1020 Case Manager Staffing Requirements, Qualifications and Training

a) Every agency providing case management services shall designate an individual who has overall responsibility for the administration of case management services.

b) A Case Manager shall meet one of the following qualifications:

1) a Registered Nurse, licensed pursuant to the Illinois Nursing Act

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of 1987 [225 ILCS 65];

2) a Certified or Licensed Social Worker, certified or licensed pursuant to the Illinois Clinical Social Work and Social Work Practice Act (225 ILCS 20);

3) a Social Worker with a minimum of a Bachelor's degree in social work, social sciences or counseling. A Bachelor's of Social Work or a Master's of Social Work from a school accredited by any organization nationally recognized for the accreditation of schools of social work is preferred; or

4) a Vocational Specialist holding a certification in Rehabilitation Counseling or a minimum of 3 years working with people with disabilities.

Each Case Manager shall have no more than 30 customers.

d) Annually, each Case Manager shall receive at least 12 hours of in-service training. The training must be relevant to the provision of services to persons with brain injuries.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 686.1025 Provisional Case Manager

a) There shall be two levels of case management staff: Provisional Case Manager and Case Manager. A Provisional Case Manager is one who has not achieved a competency score of 98 or greater on the case reviews done by the Home Services Program (HSP) administrative staff per Section 686.1030(d). Assessments, service plans and reassessments completed by a Case Manager may be implemented without consultation with the HSP administrative staff. Provisional Case Managers shall submit all developed plans to HSP for approval. Approval of the plan will be based on a review to determine that: the DON assessment on which the plan is developed is complete and accurate; the plan meets the needs identified by the assessment; the plan is cost effective compared with comparable institutional care; and the plan has been approved by the customer's physician or neuro-psychologist.

b) All Provisional Case Managers will work toward meeting Case Manager standards within six months after receiving the HSP Case Manager Training. Case Manager status will be granted when six case file reviews attain a competency score of 98-100% using the review process described in this subsection (b).

1) The HSP administrative staff will review three case files within three months from the end date of the Case Manager Training. The Case Manager will be present and have the Case Manager Training Manual.

2) The HSP staff will review each case using the HSP case file review quality assurance form.

3) Using the Case Manager Training Manual, HSP staff will discuss each deficiency with the Case Manager.

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- 4) A corrective action plan will be developed by HSP staff for the Case Manager to resolve all deficiencies in the case file.
- 5) The Case Manager will implement the corrective action plan and complete all items prior to the next review of the case files.
- 6) HSP staff will review all files noted in the corrective action plan for compliance with case management practices.
- 7) The above process will continue until the cases reviewed for the Case Manager meet a 98-100% compliance score on six case file reviews.
- c) A Case Manager shall return to provisional status when any of the following events occur:
- 1) A review of files, per this Section, results in a score of 89% or less; or
 - 2) Within the last year, HSP staff have made five requests for materials that were not submitted on time.
- Prior to the initiation of action to return a Case Manager to provisional status, the Case Manager will be sent a letter outlining deficiencies and shortcomings. The Case Manager will have 10 days to respond. The Case Manager will be returned to provisional status unless the Case Manager can prove the Department is incorrect.

Section 686.1030 Monitoring and Liability

- a) The HSP staff shall monitor the Case Manager to assure compliance with this Subpart by:
- 1) reviewing Provisional Case Managers as set forth in subsection (d) of this Section;
 - 2) reviewing, on an annual basis, a random sample of 10% of the cases handled in the preceding 12 months or two cases, whichever is greater; and
 - 3) visiting, at least annually, all contracting case management agencies.
- b) The HSP supervisory staff shall monitor the service plans of customers served by a Case Manager to ensure that:
- 1) The Case Manager is monitoring the customer's case by carrying out at least one face-to-face visit and two other contacts, monthly;
 - 2) The Case Manager is reassessing the service plan at least every three months;
 - 3) Each of the reassessments undertaken by the Case Manager is complete and accurate;
 - 4) Any amendments to the service plan are consistent with the findings of the reassessment;
 - 5) The service plan remains cost effective (i.e., the cost of the service plan is equal to or less than the State's costs for nursing facility care); and
 - 6) The service plan is approved by the customer's physician or neuro-psychologist.

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- c) Liability
- 1) DHS is not liable for actions of the Case Manager and the Case Manager must agree to hold DHS harmless against any and all liability, loss, damage, costs or expenses arising from wrongful or negligent acts of the Case Manager.
 - 2) The Case Management provider shall certify that it has maintained and will maintain liability insurance coverage. Upon request, the Case Management provider shall make available policies, certificates of insurance or current letters documenting all insurance coverage.
 - 3) The Case Management agency shall remain liable for the performance of any person, organization, unincorporated association or corporation with which it contracts.
- (Source: Added at 23 Ill. Reg. _____, effective _____)

Section 686.1040 Provider Compliance Requirements

In order to participate in the DHS program for providing services to persons with brain injuries, the provider of case management services agrees to meet the following minimum requirements, which shall be reviewed by DHS annually for compliance.

- a) Organization and Administration: The agency providing case management services shall make available, upon request, its articles of incorporation, or if an unincorporated association, it shall provide a statement of purpose and functions and the names and addresses of its owners, partners or general partners.
- b) Audits: DHS reserves the right to audit all records and accounts pertinent to the Agreement at anytime within five years after the final completion date of the Agreement.
- c) Policies and Procedures: The provider of case management services shall have written policies approved by its governing authority and available for review by customers and purchasers of the service. Such policies shall at a minimum cover:
 - 1) Services provided; the type and scope of services provided. When more than one type of service is offered, there shall be a clear distinction between each type of service.
 - 2) Personnel Policies: salary schedules, hours of work, sick leave, provision for handling employee grievances and requirements for attendance at work conferences and training sessions. There shall be written job descriptions identifying required qualifications and duties for each title.
- d) State and Federal Statutes
 - 1) All providers of case management services are subject to compliance with Illinois statutes governing conflict of interest (Sections 15-013 and 30-20 of the Illinois Procurement Code [30 ILCS 500/50-13 and 50-20]).

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- 2) All providers shall agree to comply with Title VI of the Civil Rights Act of 1964 (42 USC 20003), Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), the Illinois Human Rights Act (775 ILCS 5/1-10.1), the Constitution of the United States, the 1970 Constitution of the State of Illinois and any laws, regulations or orders, State or Federal, that prohibit discrimination on the basis of race, color, sex, religion, national origin, ancestry, age, marital status, inability to speak or comprehend the English language, physical or mental disabilities, or unfavorable discharge from military service.
- g) Non-compliance: If the provider of case management services is not in compliance with the requirements of this Subpart, corrective actions up to and including termination of the contract shall be taken.

(Source: Added at 23 Ill. Reg. _____, effective _____)

SUBPART L: BEHAVIORAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section 686.1100 Behavioral Services Provider Requirements

HSP shall use Behavioral Service Providers that are licensed under the Illinois Clinical Psychologist Licensing Act [225 ILCS 15], the Illinois Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107], or the Illinois Clinical Social Work and Social Work Practice Act [225 ILCS 20].

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 686.1110 Rate of Payment for Behavioral Services

HSP shall pay Behavioral Service Providers at rates established per 89 Ill. Adm. Code 545, Ratemaking.

(Source: Added at 23 Ill. Reg. _____, effective _____)

SUBPART M: DAY HABILITATION SERVICES FOR PERSONS WITH BRAIN INJURIES

Section 686.1200 Day Habilitation Services Provider Requirements

HSP shall use Day Habilitation Service Providers that are certified under 59 Ill. Adm. Code 119, Minimum Standards for Certification of Developmental Training Programs.

(Source: Added at 23 Ill. Reg. _____, effective _____)

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Section 686.1210 Rate of Payment for Day Habilitation Services

HSP shall pay Day Habilitation Providers the rate established per 59 Ill. Adm. Code 120, Medicaid Home and Community-Based Services Waiver Program for Individuals with Developmental Disabilities.

(Source: Added at 23 Ill. Reg. _____, effective _____)

SUBPART N: PREVOCATIONAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section 686.1300 Prevocational Services Provider Requirements

HSP shall use Prevocational Services Providers that meet standards as set forth in 89 Ill. Adm. Code 530, Criteria for the Evaluation of Programs of Services in Rehabilitation Facilities.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 686.1310 Rate of Payment for Prevocational Services

HSP shall pay Prevocational Services Providers rates as established per 89 Ill. Adm. Code 545, Ratemaking.

(Source: Added at 23 Ill. Reg. _____, effective _____)

SUBPART O: SUPPORTED EMPLOYMENT SERVICES FOR PERSONS WITH BRAIN INJURIES

Section 686.1400 Supported Employment Service Provider Requirements

HSP shall use Supported Employment Service Providers that meet standards as set forth in 89 Ill. Adm. Code 530, Criteria for the Evaluation of Programs of Services in Rehabilitation Facilities.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 686.1410 Rate of Pay for Supported Employment Services

HSP shall pay Supported Employment Service Providers rates as established per 89 Ill. Adm. Code 545, Ratemaking.

(Source: Added at 23 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Service Planning and Provision

2) Code Citation: 89 Ill. Adm. Code 684

3) Section Numbers:

684.10
Amendment
684.20
Amendment
684.30
Amendment
684.40
Amendment
684.50
Amendment
684.70
Amendment
684.80
Amendment
684.90
Amendment
684.100
Amendment

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act (20 ILCS 2405/31).

5) A Complete Description of the Subjects and Issues involved: This Home Services Program rule is being amended to incorporate revisions needed to implement the federally approved Medicaid Waiver program for a person with a brain injury. This includes an additional subsection for Section 684.70 Service Planning limitations. Also included are revisions to Section 684.20 that add a subsection on the customer's responsibilities in hiring a personal attendant. Other revisions are made to make the reference to persons served consistent within the Section and the rules of HSP.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a state mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

3rd Floor Harris Bldg,
Springfield, Illinois 62762
Telephone number: (217) 785-9772
FAX: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
B) Reporting, bookkeeping or other procedures required for compliance: None
C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 684
SERVICE PLANNING AND PROVISION

Section

- 684.10 Service Plan
684.20 Procuring an Appropriate Service Provider
684.30 Family Members as Service Providers
684.40 Distribution of the Service Plan
684.50 Service Plan Content
684.60 Provision of Services
684.70 Service Planning Limitations
684.80 Interim Services
684.90 Coordination of HSP and Other Services
684.100 Denial or Termination of HSP Services

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5129, effective March 21, 1995; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18955, effective October 1, 1998; amended at 23 Ill. Reg. _____, effective _____.

Section 684.10 Service Plan

- a) All services to be provided to a customer ~~an individual~~ through HSP must be necessary to meet an ~~unmet~~ care need of the individual or to provide relief to the caregiver for customers ~~individuals~~ eligible for respite care services and listed on a HSP Service Plan which is developed for the customer ~~individual~~, agreed to and signed by the customer and counselor.
 - 1) safe and adequate;
 - 2) cost effective; and
 - 3) the most economical in terms of the customer's ~~individual's~~ needs, unless a service is not available at the most economical level. In such instances, the next higher service level may be used as long as services remain within the SCM established for the customer ~~individual~~. Documentation of an ongoing effort to locate services at the appropriate level must be in the customer's ~~individual's~~ case file.
- b) Services provided through HSP to a ~~an~~ customer ~~individual~~ must be:
 - 1) safe and adequate;
 - 2) cost effective; and
 - 3) the most economical in terms of the customer's ~~individual's~~ needs, unless a service is not available at the most economical level. In such instances, the next higher service level may be used as long as services remain within the SCM established for the customer ~~individual~~. Documentation of an ongoing effort to locate services at the appropriate level must be in the customer's ~~individual's~~ case file.
- c) The initial HSP Service Plan for a ~~an~~ customer ~~individual~~ must be submitted with all other necessary forms to the customer's

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~~individual's~~ physician during the eligibility determination phase of the case (89 Ill. Adm. Code 682.100(g)) for the purpose of review and approval of the plan for care by the physician.

(Source: Amended at 23 Ill. Reg. _____, effective _____.)

Section 684.20 Procuring an Appropriate Service Provider

- a) ~~The customer--and the counselor--share the responsibility to locate an appropriate service provider.~~
- ab) The counselor has the responsibility to identify the appropriate level of service provider based on the customer's ~~individual's~~ approval of the initial service plan.
- b) A customer has complete discretion in which Personal Assistant he/she wishes to hire, as long as the PA meets the conditions of Section 89 Ill. Adm. Code 684.30. A customer is responsible for all stages of the interview and selection process, including the decision of which candidates to interview, the scope of the interview, whether to request a conviction background check, and the timing of the selection decisions. If requested by the customer, the counselor shall assist in identifying available resources for referral of Personal Assistant candidates for the customer to interview.

(Source: Amended at 23 Ill. Reg. _____, effective _____.)

Section 684.30 Family Members as Service Providers

- a) Legally responsible family members (89 Ill. Adm. Code 676.30) or a family member for whom the customer ~~individual~~ is legally responsible ~~for--spouse--child--~~ may not be paid through HSP to be service providers. Specifically, these individuals are:
 - 1) a spouse;
 - 2) a parent of a minor child; and
 - 3) a minor child of the customer ~~individual~~ receiving services.
- b) Other relatives (i.e., aunts, uncles, first cousins, grandparents, siblings) may be paid to provide services to a ~~an~~ customer ~~individual~~ only when:
 - 1) no other appropriate service providers can be located. The case file must contain documentation that a serious and ongoing effort is being made to locate another appropriate service provider; or
 - 2) the counselor has determined, based on documentation in the case file, that the family member is the most appropriate service provider due to the care involved or the circumstances.
- c) Individuals with a lesser ~~less~~ degree of relationship to the customer shall not be considered family members for the purpose of providing services.

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(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 684.40 Distribution of the Service Plan

A copy of the approved HSP Service Plan for the customer individual must be given to the customer and each service provider, and a copy must be retained for the case file.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 684.50 Service Plan Content

The HSP Service Plan shall include the type of service(s) to be provided to the customer individual, the specific tasks involved, the frequency with which the specific tasks are to be provided, the number of hours each task is to be provided per month, the rate of payment for the service(s), and, if the customer individual is receiving PA services, the customer's plan for backup if the usual PA is not available to provide the services and the next planned date for redetermination.

Section 684.70 Service Planning Limitations

- a) For customers individuals served through the standard Medicaid Waiver, all services listed on the Service Plan must be necessary to meet an unmet care need of the individual or, for respite cases, to provide relief to the caregiver, and must be within the SCM for the DON score attained by the customer individual as a result of the determination or redetermination of eligibility.
- b) For customers individuals receiving services through the Medicaid Waiver for Persons with AIDS, all services listed on the Service Plan must be necessary to meet an unmet care need of the customer individual or, for respite cases, to provide relief to the caregiver, and must be within the SCM for the DON score attained by the customer individual as a result of the determination or redetermination of eligibility.
- c) The SCM may be exceeded for ventilator assisted individuals (VAIs) who are receiving HSP services but have had established, through DPA, a higher rate less the cost of supplies and equipment established by DPA for institutional placement. In such cases, the amount that may be expended for HSP services shall not exceed the special care rate established for that customer individual by DPA.
- d) For individuals served through the Medicaid Waiver for Persons with Brain Injury, all services listed on the Service Plan must be necessary to provide a package of HSP services, including the specific community based services, to help meet their unmet service needs. The cost of the services must be within the SCM for the DON score attained

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by the individual as a result of the determination or redetermination of eligibility.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 684.80 Interim Services

Prior to determination of eligibility (89 Ill. Adm. Code 682), the customer individual may receive interim services while an official determination of eligibility (89 Ill. Adm. Code 682) is being completed if enough information exists to presumptively establish eligibility based on:

- a) DON score;
- b) evidence of a disability as described at 89 Ill. Adm. Code 682.100(e) based on medical documentation, counselor observation, or oral information received from a knowledgeable medical professional;
- c) the customer's individual's financial eligibility, per 89 Ill. Adm. Code 682: Subpart C;
- d) the customer's individual meeting meets all eligibility criteria as listed in 89 Ill. Adm. Code 682; and
- e) written or verbal approval from the customer's individual's physician, or neuro-psychologist for a person with brain injury, as to the appropriateness and safety of the interim service plan agreed to and signed by the customer and the counselor.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 684.90 Coordination of HSP and Other Services

- a) During any period covered by a DHS-QRS Vocational Rehabilitation (VR) Program (89 Ill. Adm. Code: Subchapter 9) Individualized Written Rehabilitation Program (IWRP) (89 Ill. Adm. Code 572) which is developed to allow the provision of training services to a customer individual, no services through HSP may be provided. If the customer individual has an active HSP case and is receiving services at the time the IWRP commences, the customer's individual's HSP case must be moved to inactive status or closed.
- b) Services may be provided to a customer an individual receiving those VR services described in subsection (a) above, during breaks from the training facility as long as no duplicate services are being provided through the VR Program.
- c) No HSP services may be provided to an individual who is a student under the age of 21 during the hours covered by the individual's Individualized Education Plan (IEP). Services for which the customer individual is determined eligible through HSP may be provided during the period the customer individual is not receiving services through his/her IEP.

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- d) Customers individuals receiving services through HSP must, at the earliest possible date, apply for and accept, if eligible, all other benefits which may affect HSP eligibility or services.
- e) All customers individuals applying for HSP services on or after October 1, 1991, must apply for, and have an eligibility determination made for, Medicaid benefits through DPA. Customers individuals in an active service status prior to October 1, 1991, may choose to apply for Medicaid.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 684.100 Denial or Termination of HSP Services

HSP services shall be denied or terminated and case closure initiated at any time the customer individual:

- a) moves from the State of Illinois or cannot be located or contacted;
- b) is determined to have a projected service cost above that of the projected cost of institutionalization, with the exceptions found at 89 Ill. Adm. Code 682.500(a)(1)(f), 682.520, and 684.70(c);
- c) refuses services or further services;
- d) dies;
- e) is institutionalized and not expected to be released for a period to exceed 60 calendar days;
- f) has been referred to another agency for the same or similar services and no longer requires or is eligible for HSP services;
- g) fails to conduct himself/herself in an appropriate manner (e.g., illegal activity, physical or sexual abuse, or threat thereof, or repeated verbal abuse by a customer against a DHS employee, agent or a provider providing services through HSP);
- h) is not, or is no longer, at risk of institutionalization due to improvement of his/her condition;
- i) fails to meet other eligibility criteria as found at 89 Ill. Adm. Code 682 as a result of an initial determination of eligibility or redetermination of eligibility;
- j) fails to cooperate (individual., refuses to complete and sign necessary forms, fails to keep appointments, fails to maintain adequate providers); or
- k) cannot have a safe and adequate service plan developed for him/her as a result of the original determination of the eligibility or redetermination of eligibility.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Special Waste Classifications
- 2) Code Citation: 35 Ill. Adm. Code 808
- 3) Section Numbers: Proposed Action:
808.121 Amended
- 4) Statutory Authority: 415 ILCS 5/22, 22.01, 22.2, and 27
- 5) A Complete Description of the Subjects and Issues Involved: A more complete description of this rulemaking may be found in the Board's opinion and order of December 17, 1998, in R98-29, which is available at the address below. Changes in the Act provided for a new Uniform Program for the transportation of hazardous waste which complements Illinois' existing program for the transportation of nonhazardous special waste. The bulk of the new rules provided for the in the Act are located in Part 809. In Part 809, Section 808.121, and Section 811.403 the term "hauler" had been used to denote those who transport special waste. The term "transporter" is now used. All references to the term "hauler" in Section 808.121 and Section 811.403 have been replaced by "transporter".
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rule (amendment, repeal) contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking neither creates nor expands a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments concerning this rulemaking should reference R98-29 and be sent to:

Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Questions regarding this proposal may be directed to Joel Sternstein at 312-814-3665.

12) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not for profit corporations affected: This will affect transporters of special waste in Illinois.
- B) Reporting, bookkeeping, or other procedures required for compliance: None

- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE G: WASTE DISPOSAL
 CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER I: SOLID WASTE AND SPECIAL WASTE HAULING

PART 808

SPECIAL WASTE CLASSIFICATIONS

SUBPART A: GENERAL PROVISIONS

Section	Purpose, Scope and Applicability
808.100	Transitional Rule
808.101	Definitions
808.110	Incorporations by Reference
808.111	Generator Obligations
808.121	Manifests
808.122	Small Quantity Generators
808.123	

SUBPART B: CLASSES OF SPECIAL WASTE

Section	Special Waste Classes
808.240	Default Classification of Special Wastes
808.241	Special Handling Waste
808.242	Wastes Categorized by Source
808.243	Wastes Categorized by Characteristics
808.244	Classification of Wastes
808.245	

SUBPART C: CRITERIA AND DATA REQUIREMENTS

Section	Criteria and Data Requirements
808.300	Introduction
808.301	Degree of Hazard Determination by Computer
808.302	Data Base and Bioassay Procedures

SUBPART D: REQUEST FOR WASTE CLASSIFICATION

Section	Request for Waste Classification
808.400	Introduction
808.401	Application Forms
808.402	Application for Waste Classification
808.410	Physical and Chemical Analysis
808.411	Significant Trace Constituents
808.412	Common Names
808.413	Wastestream Description
808.420	Quality Assurance Plan
808.430	Degree of Hazard Data

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808.431 Toxicological Testing

SUBPART B: REVIEW OF CLASSIFICATION REQUESTS

Section
808.501 Order of Requesting Information
808.521 Completeness
808.503 Standard for Classification

SUBPART F: WASTESTREAM CLASSIFICATION DETERMINATIONS

Section
808.520 Time for Agency Action
808.521 Conditions of Wastestream Classification
808.522 Final Agency Action

SUBPART G: MODIFICATION, APPEAL AND ENFORCEMENT

Section
808.541 Request for Modification
808.542 Appeal
808.543 Effect of Classification
808.544 Enforcement
808.545 Modification

SUBPART H: CATEGORICAL AND CHARACTERISTIC WASTES

Section
808.600 Introduction
APPENDIX A Assignment of Special Waste to Classes
APPENDIX B Toxicity Hazard

AUTHORITY: Implementing Sections 21, 22, 22.01 and 22.9, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/21, 22, 22.01, and 22.9].

SOURCE: Adopted in R89-13A at 14 Ill. Reg. 14043, effective August 15, 1990; amended in R98-29 at 23 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 808.121 Generator Obligations

- a) Each person who generates waste shall determine whether the waste is a special waste.
BOARD NOTE: 35 Ill. Adm. Code 722 requires the person to also determine if the waste is a hazardous waste.

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- b) No person shall deliver special waste to a transporter hauler unless the waste is accompanied by a manifest as specified in Section 808.122, and the transporter hauler has a special waste hauling permit issued pursuant to 35 Ill. Adm. Code 809. The following are exceptions to this prohibition:

- 1) The person is subject to the small quantity generator exemption of Section 808.123.
 - 2) The transporter hauler and waste are subject to a transporter hauler exemption under 35 Ill. Adm. Code 809.211.
 - 3) The Agency has determined pursuant to this part that the waste is not a special waste.
 - 4) The waste consists of municipal water or wastewater treatment plant sludge regulated under a sludge management plan approved by the Agency pursuant to 35 Ill. Adm. Code 309.208.
- c) No person shall cause, threaten or allow the treatment, storage or disposal of special waste in Illinois except:
- 1) At a facility permitted or otherwise authorized to manage the special waste pursuant to 35 Ill. Adm. Code 703 or 807 (Sections 21(d) and (e) of the Act); or
 - 2) At a facility owned and operated by such person and subject to the on-site disposal exemption of Section 21(d) of the Act (Section 21(d) of the Act).
- d) No person shall deliver special waste to a transporter hauler or a permitted facility without a supplemental wastestream permit.
- e) No person shall deliver to a transporter hauler or permitted facility special waste with a wastestream identification number unless the waste conforms with the wastestream description in the wastestream classification determination.

(Source: Amended at 23 Ill. Reg. _____, effective _____.)

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1) Heading of the Part: Special Waste Hauling2) Code Citation: 35 Ill. Adm. Code 8093) Section Numbers: Proposed Action:

809.101	Amended
809.102	Amended
809.103	Amended
809.104	Added
809.105	Added
809.201	Amended
809.202	Amended
809.203	Amended
809.204	Amended
809.205	Amended
809.206	Amended
809.207	Amended
809.208	Amended
809.209	Amended
809.210	Amended
809.211	Amended
809.212	Added
809.301	Amended
809.302	Amended
809.401	Amended
809.402	Amended
809.501	Amended
809.601	Repealed
809.701	Amended
809.802	Repealed
809.910	Added
809.911	Added
809.912	Added
809.913	Added
809.914	Added
809.915	Added
809.916	Added
809.917	Added
809.918	Added
809.919	Added
809.920	Added
809.921	Added
809. Appendix A	Repealed

4) Statutory Authority: 415 ICS 5/22, 22.01, 22.2, and 275) A Complete Description of the Subjects and Issues Involved: Prior to the early 1990s, transporters of hazardous waste were subject to numerous

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hazardous waste transport regulations at the state level. Despite the similarity of the regulations, interstate transporters had to apply for and carry different permits in different states and pay the fees in those states. In 1990 and 1994, Congress enacted legislation creating a Uniform Program to remedy this situation. The proposed amendments to Part 809 adopt the Uniform Program. The Uniform Program provides that a hazardous waste transporter need only apply to one state for a permit and pay a permit fee to the one state. Once the transporter is permitted in one state, the transporter is automatically permitted in every other state that has adopted the Uniform Program. In addition to the permit fee, the transporter pays a fee for each vehicle. In Illinois, the Illinois Environmental Protection Agency will apportion that fee to other states based on the number of miles a vehicle travels in a state and the percentage of the vehicle's total activity that involves hazardous waste. The enclosed proposal makes minor changes to Illinois' existing program for the transportation of nonhazardous special waste so that the nonhazardous special waste program and the Uniform Program are complementary.

6) Will this proposed rule replace an emergency rule currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed amendment contain incorporations by reference? Yes.

All incorporations are pursuant to 5 ILCS 100/5-75.

9) Are there any other proposed amendments pending on this Part? No10) Statement of Statewide Policy Objectives: This rulemaking neither creates nor expands a State mandate.11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments concerning this rulemaking should reference R98-29 and be sent to:

Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Questions regarding this proposal may be directed to Joel Sternstein at 312-814-3665.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This will affect transporters of hazardous and

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special waste in Illinois.

- B) Reporting, bookkeeping, or other procedures required for compliance: Tracking vehicle miles traveled in each state and the percentage of a vehicle's total activity that involves hazardous waste.
- C) Types of professional skills necessary for compliance: Simple reporting and bookkeeping skills.

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER 1: POLLUTION CONTROL BOARD

SUBCHAPTER 1: SOLID WASTE AND SPECIAL WASTE HAULING

PART 809

NONHAZARDOUS SPECIAL WASTE HAULING AND THE
UNIFORM PROGRAM

SUBPART A: GENERAL PROVISIONS

Section
809.101
809.102
809.103
809.104
809.105

Authority, Policy and Purposes
Severability
Definitions
Incorporations by Reference
Public Records

SUBPART B: NONHAZARDOUS SPECIAL WASTE HAULING PERMITS

Section
809.201
809.202
809.203

809.204

809.205
809.206
809.207
809.208
809.209
809.210

809.211
809.212

Nonhazardous Special Waste Hauling Permits - General
Applications for Nonhazardous Special Waste Hauling Permit - Contents
Applications for Nonhazardous Special Waste Hauling
Permit - Signatures and Authorization
Applications for Nonhazardous Special Waste Hauling Permit - Filing
and Final Action by the Agency
Nonhazardous Special Waste Hauling Permit Conditions
Nonhazardous Special Waste Hauling Permit Revision
Transfer of Nonhazardous Special Waste Hauling Permits
Nonhazardous Special Waste Hauling Permit Revocation
Permit No Defense
General Exemption from Nonhazardous Special Waste Hauling Permit
Requirements
Exemptions for Nonhazardous Special Waste Transporters
Duration of Nonhazardous Special Waste Hauling Permits

SUBPART C: DELIVERY AND ACCEPTANCE

Section
809.301

809.302

Requirements for Delivery of Nonhazardous Special Waste to
Transporters
Requirements for Acceptance of Nonhazardous Special or Hazardous
Waste from Transporters

SUBPART D: PERMIT AVAILABILITY VEHICLE NUMBERS AND SYMBOLS

Section

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invalid, such invalidity shall not affect the validity of this Part as a whole or of any Subpart, Section, subsection, sentence, or clause Subsection 7 Sentence or clause thereof not adjudged invalid.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.103 Definitions

"Act" means the Environmental Protection Act [415 ILCS 5] (1111-Rev7 Stat.:1989; Ch. 111-1/27; par. 1001; et seq.).

"Agency" means the Illinois Environmental Protection Agency.

"Base state" means the state in which a hazardous waste transporter must obtain a uniform registration, if required by the base state, and uniform permit.

"Board" means the Illinois Pollution Control Board.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste or special waste into or on any land or water so that such waste or special waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters. (Section 3.08 of the Act) (See "Waste," "Special Waste.")

"Garbage" means the waste resulting from the handling, processing, preparation, cooking, and consumption of food, and wastes from the handling, processing, storage and sale of produce (Section 3.11 of the Act) (See "Waste.")

"Hazardous waste" means a waste, or combination of wastes, which because of quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential threat to human health or to the environment when improperly treated, stored, transported or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of Resource Conservation and Recovery Act of 1976 (42 USC 6956-69 6901 et seq.) or pursuant to Agency guidelines consistent with the requirements of the Act and Board regulations.

Potentially infectious medical waste is not a hazardous waste, except for those potentially infectious medical wastes identified by characteristics or listing as hazardous under Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-560, or

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pursuant to Board regulations. (Section 3.15 of the Act)

"Hazardous waste transporter" means any person who transports hazardous waste as defined in Section 3.15 of the Act.

"Industrial process waste" means any liquid, solid, semi-solid or gaseous waste, generated as a direct or indirect result of the manufacture of a product or the performance of a service, which poses a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. "Industrial Process Waste" includes but is not limited to spent pickling liquors, cutting oils, chemical catalysts, distillation bottoms, etching acids, equipment cleanings, paint sludges, incinerator ashes, core sands, metallic dust, sweepings, asbestos dust, hospital pathological wastes and off-specification, contaminated or recalled wholesale or retail products. Specifically excluded are uncontaminated packaging materials, uncontaminated machinery components, general household waste, landscape waste and construction or demolition debris. (Section 3.17 of the Act)

"Manifest" means the form provided or prescribed by the Agency and used for identifying name, quantity, and the origin, routing, and destination of special waste during its transportation from the point of generation to the point of disposal, treatment, or storage, as required by this Part, 35 Ill. Adm. Code: Subtitle G H, or by the Resource Conservation and Recovery Act of 1976 (42 USC 6956-6901 et seq.), or regulations thereunder.

"Nonhazardous special waste" means any special waste, as defined in this Section, that has not been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or pursuant to Board regulations.

"Nonhazardous special waste hauling vehicle" means any self-propelled motor vehicle, except a truck tractor without a trailer, used to transport nonhazardous special waste in bulk or packages, tanks, or other containers.

"Nonhazardous special waste transporter" means any person who transports nonhazardous special waste.

"Off-site" means any site that is not "on-site", as defined in this Section.

"On-site" means (for the purpose of transporting hazardous waste) on the same or geographically contiguous property that may be divided by

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public or private rights-of-way, provided that entrance and exit between the properties is at a cross-roads intersection, and access is by crossing, as opposed to going along the rights-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way that the person controls, and to which the public does not have access, is also considered on-site property.

"Participating state" means a state that has elected to participate in the uniform program and has entered into a reciprocal agreement.

"Permitted disposal site" means a sanitary landfill or other type of disposal site, including but not limited to a deep well, a pit, a pond, a lagoon or an impoundment which has a current, valid operating permit issued by the Agency ~~agency under Subpart-B of this Part~~ and a supplemental permit issued by the Agency ~~under Subpart-B of this Part~~ specifically permitting the site to accept a special waste tendered for disposal.

"Permitted storage site" means any site used for the interim containment of special waste prior to disposal or treatment that ~~which~~ has a current, valid operating permit issued by the Agency ~~under Subpart-B of this Part~~ and a supplemental permit issued by the Agency ~~under Subpart-B of this Part~~ specifically permitting the site to accept a special waste tendered for storage.

"Permitted treatment site" means any site used to change the physical, chemical or biological character or composition of any special waste, including but not limited to a processing center, a reclamation facility or a recycling center that ~~which~~ has a current, valid operating permit issued by the Agency ~~under Subpart-B of this Part~~ and a supplemental permit issued by the Agency ~~under Subpart-B of this Part~~ specifically permitting the site to accept a special waste tendered for treatment.

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity or their legal representative, agent or assignee. (Section 3.26 of the Act.)

"Pollution control waste" means any liquid, solid, semi-solid or gaseous waste generated as a direct or indirect result of the removal of contaminants from the air, water or land, and which pose a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. "Pollution control waste" includes but is not limited to water and wastewater treatment plant sludges, baghouse dusts, scrubber sludges and chemical spill

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cleanings. (Section 3.27 of the Act.)

"Principal place of business" means the state in which a person owning vehicles used for transporting hazardous waste maintains its central records or majority of its records relating to the transportation of hazardous materials, or the state in which the person owning vehicles used for transporting hazardous waste has the plurality of its mileage.

"Reciprocal agreement" means an agreement between Illinois and another state to participate in the Uniform Program.

"Reclamation" means the recovery of material or energy from waste for commercial or industrial use.

"Refuse" means any garbage or other discarded materials, with the exception of radioactive materials discarded in accordance with the provisions of the Radiation Protection Act [420 ILCS 40] ~~4111-Rev-Stat--1989,--ch--111-1/2;--par--311-et--seqr and Radioactive Waste Storage Act "AN-Act-in-relation-to-the-concentration-and--storage--of radioactive--waste" [420 ILCS 35] 4111-Rev-Stat--1989,--ch--111-1/2 par--230-1-et--seqr--as-now-or-hereafter-amended.~~ (See "Waste.")

"Septic tank pumpings" means the liquid portions and sludge residues removed from septic tanks.

"Site" means any location, place or tract of land and facilities, including but not limited to, buildings and improvements used for purposes subject to regulation or control by the Act or regulations under the Act ~~used-for-collection-storage-disposal-or-treatment--of special-waste.~~ (Section 3.43 of the Act.)

"Solid waste" (see "Waste").

"Special waste" means any of the following: ~~is-as-defined-in-35-111-Adm--Code-800-111;--Special-waste-may-be-either--wclass-A--or--wclass-Ba-pursuant-to-35-111-Adm--Code-800-245;~~

= Potentially infectious medical waste.

= Hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in 35 111. Adm. Code 722.111, including a residue from burning or processing hazardous waste in a boiler or industrial furnace unless the residue has been tested in accordance with 35 111. Adm. Code 726.212 and proven to be nonhazardous.

= Industrial process waste or pollution control waste, except:

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disposal or treatment.

"tank" means any bulk container placed on or carried by a vehicle to transport special waste, including wheel mounted tanks.

"Treatment" means any method, technique or process, including neutralization designed to change the physical, chemical or biological character or composition of any special waste so as to neutralize that waste or so as to render that waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. "Treatment" includes any activity or processing designed to change the physical form or chemical composition of special waste to render it less dangerous or nonhazardous. "Treatment" also includes reclamation, re-use and recycling of special waste. (Section 3.49 of the Act)

"Truck" means any unitary vehicle used to transport special waste.

"Truck tractor" means any motor vehicle used to transport special waste that which is designed and used for drawing other devices vehicles and not so constructed as to carry a load other than a part of the weight of the device vehicle and load so drawn.

"Uniform application" means the uniform registration and uniform permit application form established under the Uniform Program and provided by the Agency.

"Uniform permit" means the permit issued by a base state under Part II of the uniform application.

"Uniform Program" means the program established pursuant to the directive of the Hazardous Materials Transportation Uniform Safety Act of 1990 (49 USC 1 et seq.) and the Hazardous Materials Transportation Authorization Act of 1994 (49 USC 5101 et seq.) and implemented pursuant to the Final Report: Uniform Program Pilot Project and the State Program Administrator's Manual, Uniform Program, Alliance for Uniform HazMat Transportation Procedures, incorporated by reference in Section 809.104.

"Uniform registration" means the annual registration issued by a base state under Part I of the uniform application, if the base state has a registration requirement.

"vehicle" means any self-propelled motor vehicle, except a truck tractor without a trailer, designed or used for the transportation of hazardous waste. (Section 22.2(1-5)(1) of the Act) device-used-to transport special waste--in-bulk--or--in-packages--tanks--or--other containers:

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Any such waste certified by its generator, pursuant to Section 22.48 of the Act, not to be any of the following:

= A liquid, as determined using the paint filter test set forth in 35 Ill. Adm. Code 811.107(m)(3)(A);

= Regulated asbestos-containing waste materials, as defined under the National Emission Standards for Hazardous Air Pollutants in 40 CFR 61.141;

= Polychlorinated biphenyls (PCBs) regulated pursuant to 40 CFR 761;

= An industrial process waste or pollution control waste subject to the waste analysis and recordkeeping requirements of 35 Ill. Adm. Code 728.107 under the land disposal restrictions of 35 Ill. Adm. Code 728.1 and

= A waste material generated by processing recyclable metals by shredding and required to be managed as a special waste under Section 22.29 of the Act;

= Any empty portable device or container, including but not limited to a drum, in which a special waste has been stored, transported, treated, disposed of, or otherwise handled, provided that the generator has certified that the device or container is empty and does not contain a liquid as determined using the paint filter test set forth in 35 Ill. Adm. Code 811.107 (m)(3)(A). "Empty portable device or container" means a device or container in which removal of special waste, except for a residue that shall not exceed one inch in thickness, has been accomplished by a practice commonly employed to remove materials of that type. An inner liner used to prevent contact between the special waste and the container shall be removed and managed as a special waste, or

= As may otherwise be determined under Section 22.9 of the Act. (Section 3.45 of the Act)

"Special waste transporter/heater" means any person who transports special waste (as defined in Section 3.45 of the Act) from any location.

"Spill" means any accidental discharge of special waste.

"Storage" means the interim containment of special waste prior to

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- 20590.
- c) The Final Report: Uniform Program Pilot Project, March 15, 1996. A copy is available from the U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590 or on the internet at <http://www.fhwa.dot.gov/omc/alliance.html>.
- d) State Program Administrator's Manual, Uniform Program, Alliance for Uniform HazMat Transportation Procedures, revised version, September 10, 1997. A copy is available from the National Governors' Association, 444 North Capitol Street, Suite 267, Washington, D.C. 20001 or the National Conference of State Legislatures, Attn: Alliance Project Manager, 1560 Broadway, Suite 700, Denver CO 80202.
- e) This Section incorporates no later editions or amendments.
- (Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.105 Public Records

Information submitted to the Agency or Board pursuant to this Part will be withheld from or released to the public in accordance with the following:

a) The Illinois Freedom of Information Act [5 ILCS 140].

b) 35 Ill. Adm. Code 120; and

c) IEPA Rules implementing the Illinois Freedom of Information Act.

(Source: Added at 23 Ill. Reg. _____, effective _____)

SUBPART B: NONHAZARDOUS SPECIAL WASTE HAULING PERMITS

Section 809.201 Nonhazardous Special Waste Hauling Permits - General

No person may ~~shall~~ haul or otherwise transport any nonhazardous special waste generated within Illinois or any nonhazardous special waste to be disposed of, stored or treated within Illinois without a current, valid nonhazardous special waste hauling permit issued by the Agency in accordance with the requirements of this Subpart unless the transporter participates in the Uniform Program or ~~hauler~~ is exempt from the nonhazardous special waste hauling permit requirements under this Subpart.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.202 Applications for Nonhazardous Special Waste Hauling Permit - Contents

Applications for nonhazardous special waste hauling permits shall be made on application forms prescribed or provided by the Agency, which, at a minimum, shall require the following information:

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"waste" means any garbage, ~~refuse~~, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, ~~in domestic sewage, or solid or dissolved materials as defined in Section 3.94 of the Act, or in industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, (43-U.S.C. 1251-et seq.) or source, special nuclear, or byproduct materials as defined by the Atomic Energy Act of 1954, as amended (42 USC 8556- 2011 et seq. or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977, P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto. (Section 3.53 of the Act); ~~or radioactive materials as discarded in accordance with the provisions of the Act in relation to personnel radiation monitoring; ~~the Rev. Stat. 1969, Chapter 113-1/2, Part 230-1-et-seq.) and as authorized by regulations promulgated pursuant to the Radiation Protection Act (111-Rev-Stat-1989-68-113-1/2 Part 211-et-seq.) as now or hereafter amended; ~~Waste as here defined in 19-intended to be consistent with the definition of solid waste set forth in Section 1064(f) of Resource Conservation and Recovery Act of 1976 (42-U.S.C. 6903(f)) (Section 3.53 of the Act.)~~~~~~~~

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.104 Incorporations by Reference

The Board incorporates the following material by reference:

a) CFR (Code of Federal Regulations). A copy is available from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402 (202) 783-3238.

49 CFR 171 (1996)

49 CFR 172 (1996)

49 CFR 177 (1996)

49 CFR 178 (1996)

49 CFR 180 (1996)

49 CFR 383 (1996)

49 CFR 387 (1996)

49 CFR 390-397 (1996)

b) The Report of the Alliance for Uniform HazMat Transportation Procedures, November 17, 1993. A copy is available from the U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C.

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- a) Name, address, telephone number and location of the nonhazardous special waste hauling vehicle owner and operator applying for the permit;
- b) A description of the service to be provided, including the number and types of nonhazardous special waste hauling vehicles and tanks to be used;
- c) An agreement by the nonhazardous special waste hauling vehicle owner and the that operator identified in Section Subsection 809.202(a) that:

- 1) Nonhazardous special waste loading, hauling and unloading will be conducted in compliance with all applicable State state and federal laws and regulations;
- 2) All nonhazardous special waste hauling vehicles and tanks used in nonhazardous special waste hauling will be clean and in good repair at all times when so employed;
- 3) All nonhazardous special waste hauling vehicles, tanks and associated piping, valving, etc., will be constructed and maintained to prevent leakage or spillage, and shall be cleanable;
- 4) No waste may shall be mixed with other wastes in one tank or on one nonhazardous special waste hauling vehicle if such mixture results in a hazardous combination likely to cause explosion, fire or release of a dangerous or toxic gas or in violation of any applicable State state or federal law or and regulations;
- 5) The nonhazardous special waste hauling equipment and procedures to be used shall be proper for the permitted service, be safe for the transporters haulers, handlers, and others, and meet the requirements of all other applicable State state and federal laws and regulations; and

- d) The application may require additional information deemed necessary by the Agency consistent with the requirements of the Act and Board regulations. --and--fixed--with--the--Administrative--Code--Unit--of--the--Office--of--the--Secretary--of--State--pursuant--to--Illinois--Administrative--Procedure--Act--(4110-Rev-Stat--1981-Ch--127--part--1801-et--seq.)

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.203 Applications for Nonhazardous Special Waste Hauling Permit - Signatures and Authorization

All nonhazardous special waste hauling permit applications shall be signed by the owner and operator of the nonhazardous special waste hauling vehicle; or, in the name of the owner and operator, by the owner's or end operator's duly authorized agent when accompanied by evidence of authority to sign the application.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 809.204 Applications for Nonhazardous Special Waste Hauling Permit - Filing and Final Action by the Agency

- a) An application for nonhazardous special waste hauling permit is considered ~~shall be deemed to be~~ filed on the date of ~~intest--receipt~~ by the Agency receives of a properly completed application on the form prescribed or provided by the Agency and with correct fees.
- b) If the Agency fails to take final action (which includes granting or denying the nonhazardous special waste hauling permit with conditions) within 90 days after ~~from--the--filing--of~~ the date the completed application is filed, the applicant may deem the nonhazardous special waste hauling permit granted for a period of one calendar year commencing on the 91st day after the application was filed.

- c) The Agency will ~~shall~~ send all denials ~~notices-of-final-action~~ by U.S. Registered or Certified Mail, Return Receipt Requested. All other final Agency decisions may go by regular U.S. Mail. The Agency will ~~shall~~ be deemed to have taken final action on the date that the notice of final action is mailed. Within 35 days after the Agency's final action, the applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of the Act.

- d) The Agency will ~~shall~~ require the application to be complete. If incomplete, the application will be returned and the transporter will be required to resubmit a complete application. The application must be and consistent with the provisions of the Act and Board regulations. The Agency and may undertake such investigations and request the applicant to furnish such proof as it deems necessary to verify the information and statements made in the application. If the application is complete and the granting it thereof will not violate ~~cause--a--violation--of~~ the Act or Board regulations, the Agency will ~~shall~~ grant the permit.

- e) When an application is denied because it fails to comply with the Act or Board regulations, any fees submitted with the application will be non-refundable. Any subsequent refiling of the application will be considered a new application for which an application fee must be included in accordance with Section 22.2 of the Act.

- f) When the Agency rejects an application because it is incomplete, any fees submitted will be non-refundable. The applicant can receive credit for the payment with a resubmitted application if the resubmittal is complete and returned to the Agency within 30 days after the initial date-stamped rejection.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 809.205 Nonhazardous Special Waste Hauling Permit Conditions

- a) In granting nonhazardous special waste hauling permits hereunder, the Agency may impose such conditions as may be necessary to accomplish the purposes of the Act and the Board regulations.
- b) The applicant may deem any conditions imposed by the Agency as a denial of the nonhazardous special waste hauling permit for purposes of review pursuant to Section 40 of the Act.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.206 Nonhazardous Special Waste Hauling Permit Revision

A nonhazardous special waste hauling permit will be issued hereunder is automatically modified to include any relevant change in the Act or Board regulations. The Agency will shall revise any nonhazardous special waste hauling permit issued by the Agency under this Part to make the permit compatible with any such relevant changes and so notify the permittee in writing. Failure of the Agency to issue a revised permit shall not excuse the permittee from compliance with any such change.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.207 Transfer of Nonhazardous Special Waste Hauling Permits

No nonhazardous special waste hauling permit is transferable from one person to another. A special waste hauling permit is personal to the persons named in the special waste hauling permit.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.208 Nonhazardous Special Waste Hauling Permit Revocation

Violation of any nonhazardous special waste hauling permit conditions or failure to comply with any provisions of the Act or with any Board regulation will shall be grounds for sanctions as provided in the Act, including revocation of the permit as therein provided in the Act.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.209 Permit No Defense

The existence of a nonhazardous special waste hauling permit under this Part these rules does shall not provide the permittee with a defense to a violation

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of the Act or Board regulations, except for hauling nonhazardous special waste without a nonhazardous special waste hauling permit.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.210 General Exemption from Nonhazardous Special Waste Hauling Permit Requirements

Any person who generates a total quantity of nonhazardous special waste 100 kilograms (220 pounds) 228 pounds (108 kilograms) or less in any calendar month for disposal, storage or treatment within Illinois is exempt from the permit requirements of this Subpart and from the manifest provisions in Subpart E of this Part. This exemption shall not constitute a defense to a violation of any provision of the Act or any applicable disposal, storage or treatment requirement of 35 Ill. Adm. Code 807.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.211 Exemptions for Nonhazardous Special Waste Haulers

The following persons need not obtain a nonhazardous special waste hauling permit nor carry a manifest if they haul only the waste indicated:

- a) Any person licensed in accordance with the Private Sewage Disposal Licensing Act [225 ILCS 225] (111 Rev. Stat. 1989, ch. 149, § 149-1 et seq.) and who hauls 116-981-et-seq) and who hauls only septic tank pumpings.
- b) Any person who hauls only livestock waste intended for land application pursuant to 35 Ill. Adm. Code 560.
- c) Transporters haulers of municipal water or wastewater treatment plant sludge that which is to be applied to land and that which is regulated under a sludge management scheme approved by the Agency pursuant to 35 Ill. Adm. Code 309.208.
- d) Any person licensed in accordance with "An Act in relation to the disposal of Illinois Dead Animal Disposal Act of Dead Animals" [225 ILCS 610] (111 Rev. Stat. 1989, ch. 8, par. 149-1 et seq.) and who hauls only grease, meat packing scraps, dead animals and parts of animals for delivery to a renderer.
- e) Any person operating under rules and regulations adopted pursuant to the Act in relation to Illinois Oil, and Gas Act, Coal and other Surface and underground Resources" [225 ILCS 725] (111 Rev. Stat. 1989, ch. 96, § 149-1 et seq.) and who hauls only oil and gas extraction wastes as defined in the Act.
- f) Any person who hauls only radioactive wastes as defined by the Radiation Protection Act [420 ILCS 40] (111 Rev. Stat. 1989, ch. 111, § 27, par. 211 et seq.).
- g) Any person holding a permit or certificate issued by the Illinois Commerce Commission or the Interstate Commerce Commission and who

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handles-only shipments pursuant to a bill of lading in accordance with such Commission's regulations:

- g)† Any person who hauls only coal combustion fly ash.
- h)†† Any person who hauls only declassified waste or refuse.
- i)†† Any person who hauls only special waste exempted by 35 Ill. Adm. Code 808.123 (small quantity generators of 220 pounds or less per month of special waste).
- j) Any person who hauls potentially infectious medical waste that is regulated under 35 Ill. Adm. Code Subtitle M.
- k) Any person who hauls used tires regulated under 35 Ill. Adm. Code 848.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.212 Duration of Nonhazardous Special Waste Hauling Permits

- a) All permits issued under this Part will be issued for a period not to exceed one year and are renewable.
- b) Applications for renewal of a nonhazardous special waste hauling permit should be made prior to the expiration date of the permit on the application forms prescribed in Section 809.302.

SUBPART C: DELIVERY AND ACCEPTANCE

Section 809.301 Requirements for Delivery of Nonhazardous Special Waste to Transporters Haulers

No person may shall deliver any special waste generated within Illinois or for disposal, storage or treatment within Illinois unless that person concurrently delivers a manifest completed in accordance with Subpart E of this Part to a special waste transporter hauler who holds a current nonhazardous valid special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B of C of this Part.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.302 Requirements for Acceptance of Nonhazardous Special or Hazardous Waste from Transporters Haulers

- a) No person may shall accept any special waste for disposal, storage or treatment within Illinois from a special waste transporter hauler unless the special waste transporter hauler has a valid nonhazardous special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B or J of this Part and concurrently presents to the receiver of the special waste, or the receiver's his agent, a completed, signed manifest as required by Subpart E of this Part, which manifest designates the receiver's

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- b) No person may shall deliver special waste in Illinois for disposal, storage or treatment unless the person who accepts the special waste has a current, valid operating permit issued by the Agency and the necessary supplemental permits required by 35 Ill. Adm. Code 807, as well as all other applicable permits as required by the Act and Board regulations.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART D: PERMIT AVAILABILITY VEHICLE NUMBERS AND SYMBOLS

Section 809.401 Permit Availability Vehicle Numbers

The owner and operator of any vehicle except truck tractors as defined in Subpart A which is used to transport special waste shall list each such vehicle on the special waste hauling permit application. Upon issuance of a nonhazardous special waste hauling permit or a Uniform Program Registration and permit, the owner and operator of any such vehicle used to transport nonhazardous special or hazardous waste shall maintain within the vehicle a legible photocopy of the nonhazardous special waste hauling permit or Uniform Program Registration and permit. Upon request, issuance of the nonhazardous special waste hauling permit or Uniform Program Registration and permit shall be disclosed by the owner and operator of the vehicle to any representative of the State of Illinois (including, but not limited to, the Agency), any generator(s) of the special waste, or any treatment, storage, or disposal facility that which has handled, is handling, or will handle the special waste. Upon request by such representative, the transporter shall make available a photocopy of the nonhazardous special waste hauling permit or Uniform Program Registration and permit to the representative photocopy shall be made available by the owner and operator of the vehicle for review. The owner and operator of the vehicle shall also comply with any otherwise applicable federal regulations.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.402 Nonhazardous Special Waste Symbols

All vehicles used to transport special waste and packages used to contain special waste shall be labeled, marked and placarded in accordance with regulations adopted by the Illinois Department of Transportation or the United States Department of Transportation or the United States Environmental Protection Agency, whichever has jurisdiction. this rule is provided for informational purposes only and does not constitute an independent enforceable regulation with respect to labeling marking and placarding requirements.

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(Source: Amended at 23 Ill. Reg. _____, effective _____.)

SUBPART E: MANIFESTS, RECORDS AND REPORTING

Section 809.501 Manifests, Records, Access to Records, Reporting Requirements and Forms

- a) Any person who delivers special waste to a permitted nonhazardous special or hazardous waste transporter hauler shall complete a uniform hazardous waste manifest to accompany the special waste from delivery to the destination of the special waste. The manifest form will be provided or prescribed by the Agency. Which shall be provided or prescribed by the Agency shall, as a minimum, contain the name of the generator of the special waste, when and where generated, name of the person from whom delivery is accepted and the name of the site from which delivered, the name of the special waste, hauler, the date of delivery, the final disposal, storage or treatment site, and the name, classification and quantity of the special waste delivered to the hauler. The Agency may provide or prescribe a different form of manifest for Class A special wastes than for Class B special wastes.
- b) The transporter shall include in the manifest the following:
- 1) The name of the generator of the special waste and generator number;
 - 2) Information stating when and where the special waste was generated;
 - 3) The name of the person from whom delivery is accepted and the name of the site from which delivered;
 - 4) The name and permit number of the transporter;
 - 5) The date of delivery; and
 - 6) The classification and quantity of the special waste delivered to the transporter.
- c) Manifest copies to be sent to the Agency:
- 1) Every person who delivers RCRA hazardous waste or polychlorinated biphenyl (PCB) wastes to a transporter shall submit a copy of the Illinois manifest to the Agency within two days after the shipment. Every person who accepts RCRA hazardous waste or PCB waste from a transporter shall submit a copy of the Illinois manifest to the Agency within 30 days after receipt.
 - 2) A person who delivers RCRA hazardous waste or PCB wastes to a transporter on another state's manifest, such as where the destination state requires use of its manifest, does not have to submit manifest copies to the Agency.
 - 3) A person who delivers non-RCRA hazardous wastes or non-PCB wastes to a transporter does not have to send a copy of the manifest to the Agency. A person who accepts non-RCRA hazardous waste or non-PCB wastes from a transporter does not have to send a copy of the manifest to the Agency.

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- d) The manifest will shall consist of at least four parts, in contrasting colors, such that an entry or signature on one part will be directly reproduced upon all underlying parts. The top part of the manifest shall be signed by the person who delivers special waste to a special waste transporter hauler, such signature acknowledging the such delivery. The top part of the manifest shall also be signed by the special waste transporter hauler, such signature acknowledging receipt of the special waste. The person who delivers special waste to a special waste transporter hauler shall retain the designated parts top part of the manifest as a record. The remaining three parts of the manifest shall accompany the special waste shipment. At the destination, the second part of the manifest shall be signed by the person who accepts special waste from a special waste transporter hauler, such signature acknowledging receipt acceptance of the special waste.

- e) A permitted site that which receives special waste for disposal, storage or treatment of special waste must be designated on the manifest as the final destination point. Any subsequent delivery of the special waste or any portion or product thereof to a special waste transporter hauler shall be conducted under a manifest initiated by the permitted disposal, storage or treatment site.

- f) In all cases, the special waste transporter hauler shall deliver the designated third and fourth parts of the complete, signed manifest to the person who accepts delivery of special waste from the transporter hauler. The special waste transporter hauler shall retain the designated second part of the completed, signed manifest as a record of delivery to a permitted disposal, storage or treatment site. In addition, at the end of each month, or such longer if period-of-time approved by the Agency, the owner and the operator of the permitted disposal, storage or treatment site who accepts special waste from a special waste transporter hauler shall send the designated fourth part of the completed manifest to the person who delivered the special waste to the special waste transporter hauler.

- g) Every generator person who delivers special waste to a special waste transporter hauler, every person who accepts special waste from a special waste transporter hauler and every special waste transporter hauler shall retain their respective parts of the special waste manifest as a record of all special waste transactions. These parts should shall be retained for three years and shall be made available at reasonable times for inspection and photocopying by the Agency.

BOARD NOTE: The manifest requirements of 35 Ill. Adm. Code 722, 724 and 725 relative to RCRA hazardous wastes are not affected by this subsection. Generators and receiving facilities subject to those Parts shall continue to supply designated copies of all manifests to the Agency.

- h) Every person who delivers Class A special waste to a special waste transporter and every person who accepts Class A special waste from a special waste transporter shall file a report, on forms prescribed or

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provided--by--the--Agency--summarizing--all--such--activity--during--the preceding--calendar--quarter--Such--reports--shall--at--a--minimum--include the--information--specified--in--subsections--(h) and--(i) of--this--Section and--be--submitted--no--later--than--the--tenth--day--of--the--month--following--the end--of--the--calendar--quarter--This--subsection--shall--be--applicable--to all--Class--A--special--wastes--which--are--delivered--to--a--special--waste hauler--on--or--after--January--1,--1991.

h) Every generator person who delivers nonhazardous Class-B special waste via a transporter to a facility located outside Illinois special waste--hauler--and--every--person--who--accepts--Class-B--special--waste--from a--special--waste--hauler--shall--file--a--report, on forms prescribed or provided by the Agency, summarizing all such activity during the preceding calendar year--ending--on--August--1. Such reports shall, at a minimum, include the information specified in subsection (i) of this Section and should be received by the Agency mailed no later than February 1, October 1, or February 1, two months following the end of the preceding year. This subsection shall be applicable to all Class-B special wastes which are delivered to a special waste hauler on or after January 1, 1991.

i) Every quarterly or annual report required to be filed with the Agency by a generator for waste going out of state pursuant to subsection (h) of this Section shall include the following:

- 1) The IEPA identification number, name and address of the generator;
- 2) The period (calendar quarter or year) covered by the report;
- 3) The IEPA identification number, name and address for each off-site treatment, storage or disposal facility in the United States to which waste was shipped during the period;
- 4) The name and IEPA special waste hauling identification number of each transporter used during the period for shipments to a treatment, storage or disposal facility within the United States;
- 5) The IEPA supplemental permit identification number issued for the wastestream shipped off-site;
- 6) A description and the total quantity of each nonhazardous special waste wastestream shipped out of state off-site, listed by IEPA identification number of each receiving site, and the method of treatment, storage or disposal for each nonhazardous special waste; and
- 7) A certification signed by the generator or the generator's authorized representative.

Every in-State facility that accepts nonhazardous special waste from a nonhazardous special waste transporter shall file a report, on forms prescribed or provided by the Agency, summarizing all such activity during the preceding calendar year. Such reports should, at a minimum, include the information specified in subsection (k) of this Section, and be received by the Agency no later than February 1. This subsection is applicable to all nonhazardous special wastes that are delivered to a nonhazardous special waste transporter on or after

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January 1, 1991.

k) Every quarterly or annual report required to be filed with the Agency by a person accepting nonhazardous special waste from a nonhazardous special waste transporter hauler pursuant to subsection (i) of this Section shall include the following information:

- 1) The IEPA identification number, name and address of the facility;
- 2) The period (calendar quarter or year) covered by the report;
- 3) The for-off-site-facility, the IEPA identification number, name and address of each nonhazardous special hazardous waste generator from which the facility received a nonhazardous non-hazardous special waste during the period; for-imported shipments--the-report--must--give--the--name--and--address--of--the foreign-generator;
- 4) A description and the total quantity of each nonhazardous non-hazardous special waste the facility received from off-site during the period. This information shall be listed by IEPA identification number of each generator;
- 5) The method of treatment, storage or disposal for each nonhazardous non-hazardous special waste; and
- 6) A certification signed by the owner or operator of the facility or the owner or operator's authorized representative.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART F: DURATION OF PERMITS AND TANK NUMBERS

Section 809.601 Duration of Special Waste Hauler Permits and Tank Numbers (Repealed)

- a) All permits and tank numbers issued hereunder shall be issued for a period not to exceed one year and are renewable.
- b) Applications for renewal of a special waste hauler permit shall be made 90 days prior to the expiration date of the permit on the application forms prescribed in Section 809.602.

(Source: Repealed at 23 Ill. Reg. _____, effective _____)

SUBPART G: EMERGENCY CONTINGENCIES FOR SPILLS

Section 809.701 General Provision

In order to facilitate the clean-up, transportation or safe treatment, storage or disposal of any waste generated by an accidental release of any material or special waste within Illinois that which constitutes a present or potential threat to health or to the environment, the Agency may give written exception from the procedural requirements of this Part and 35 Ill. Adm. Code 807 in

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accordance with guidelines adopted by the Agency that which are consistent with Section 3003 of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580) and the Act and Board regulations. A ~~the-existence-of-a~~ written exception from the ~~this~~ Agency under this Subpart does ~~shall~~ not constitute a defense to a violation of the Act or of this Part except for those requirements specifically stated in the written exception.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.802 Exceptions (Repealed)

~~Every person--subject to the provisions of Sections 809.801, 809.8017, 809.802, 809.8027, 809.803, 809.804 and 809.805--shall comply with such rules 190--days--after--the effective date of this Part.~~

(Source: Repealed at 23 Ill. Reg. _____, effective _____)

SUBPART J: UNIFORM PROGRAM

Section 809.910 Uniform State Hazardous Waste Transportation Registration and Permit Program

a) Beginning July 1, 1998, no person may transport offsite any hazardous waste (or mixture of hazardous and nonhazardous waste) into, through, or within Illinois, without registering and obtaining a permit under the Uniform Program, or in violation of any permit condition for any permit required under this subsection and issued by the Agency or by any participating state.

1) A transporter with its principal place of business in Illinois shall obtain a uniform registration and a uniform permit from the Agency.

2) A transporter with its principal place of business in another state shall designate another participating state in the Uniform Program as its base state and shall obtain a uniform registration from the base state, if the base state requires registration, and shall obtain a uniform permit from the base state before transporting hazardous waste in Illinois.

b) Small quantity generators of 100 kilograms (220 pounds) or less per month are exempt from the uniform registration and uniform permit requirements of this Part, except generators of acute hazardous waste as specified in 35 Ill. Adm. Code 721.105(e).

c) A hazardous waste transporter shall comply with all the provisions of 49 CFR 171, 172, 177, 178, 180, 383, 387, and 390-397, incorporated by reference in Section 809.104, if the hazardous waste is transported in Illinois.

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(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.911 Application for a Uniform Permit

a) Hazardous waste transporters whose base state is Illinois shall obtain a uniform permit from the Agency by completing Part II of the uniform application, provided by the Agency. The application form, provided by the Agency, will be identical in scope, coverage, and content to the uniform procedures and forms required by the Uniform Program. If the application is complete and granting it will not violate the Act or Board regulations, the Agency will grant the uniform permit. The following procedures apply to the submittal of an application for a uniform permit:

1) An application for a uniform permit is considered filed when the Agency receives a completed application on the form provided by the Agency and with the correct fee, set forth in Sections 809.913 and 809.915.

2) A completed application must include all information required in Part II of the uniform application.

3) The Agency will notify the transporter in writing within 90 days after receipt of the application if the application is incomplete. If incomplete, the application will not be reviewed, and a copy of it will be returned to the transporter with instructions for resubmittal.

4) If the Agency is unable to take final action (which includes granting or denying the uniform permit as requested, or by granting the uniform permit with conditions) within 90 days after the date the completed application is filed, the Agency will issue a letter of filing to the applicant. Letters of filing will include the following:

A) A statement indicating that the applicant is in compliance with the application requirements of the Uniform Program.

B) A statement that law enforcement officials in all participating jurisdictions shall honor Letters of Filing as temporary evidence of compliance with the Uniform Program, and

C) An expiration date 180 days from the date the Letter of Filing is issued.

5) On or before the expiration of any Letter of Filing the Agency will take final action on the completed application or the applicant may deem the uniform permit granted for the three year permit period, commencing on the day the completed application was filed with the Agency.

c) The uniform permit will be valid for a period of three years unless:

- 1) a transporter fails to renew its annual uniform registration; or
- 2) there is a change in the transporter's operations during the permitting period (i.e., a transporter with a Part I uniform

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permit begins transporting hazardous waste in a state that requires a Part III disclosure).

- d) If the transporter's operations change during the permitting period, the transporter shall submit a new uniform permit application (Part II) detailing the changes. The Agency will review the changes in accordance with the criteria and procedures outlined in the Alliance for Uniform HazMat Transportation Procedures, incorporated by reference in Section 809.104(d), for evaluation of the application.
- e) The Agency will send all denial notices and applications granted with conditions by U.S. Registered or Certified Mail, return receipt requested. All other final notices may be sent by regular U.S. mail. The Agency will be deemed to have taken final action on the date that the notice of final action is mailed. Within 35 days after the Agency's final action, the applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of the Act.
- f) The Agency may undertake such investigations and request the applicant to furnish such proof as it deems necessary to verify the information and statements made in the application.
- (Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.912 Application for Uniform Registration

- a) Hazardous waste transporters whose base state is Illinois shall obtain a uniform registration from the Agency by completing Part I of the uniform application, provided by the Agency, during the first year of each three-year permitting period. A hazardous waste transporter whose base state is Illinois shall renew the uniform registration from the Agency by completing Parts I and IV of the uniform application provided by the Agency, during the second and third years. The application form will be identical in scope, coverage, and content to the uniform procedures and forms required by the Uniform Program. If the application is complete and granting it will not violate the Act or Board regulations, the Agency will grant the uniform registration. The following procedures apply to the submittal of an application for a uniform registration:

- 1) An application for uniform registration is considered filed when the Agency receives a completed application on the forms provided by the Agency and with the correct fees, set forth in Sections 809.914 and 809.915.
- 2) A completed application must include all information required in Part I of the uniform application during the first year and all information required in Parts I and IV during the second and third years.
- 3) The Agency will notify the transporter in writing within 90 days after receipt of the application if the application is

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incomplete. If incomplete, the application will not be reviewed, and a copy of it will be returned to the transporter with instructions for resubmittal.

4) If the Agency is unable to take final action (which includes granting or denying the uniform registration as requested, or by granting the uniform registration with conditions) within 90 days after the date the completed application is filed, the Agency will issue a letter of filing to the applicant. Letters of Filing will include the following:

- A) A statement indicating that the applicant is in compliance with the application requirements of the Uniform Program;
 - B) A statement that law enforcement officials in all participating jurisdictions shall honor Letters of Filing as temporary evidence of compliance with the Uniform Program; and
 - C) An expiration date 180 days from the date the Letter of Filing is issued.
- 5) On or before the expiration of any Letter of Filing the Agency will take final action on the completed application or the applicant may deem the uniform registration granted for the one year registration period, commencing on the day the completed application was filed with the Agency.
- c) The uniform registration is valid for a period of one year and must be renewed annually.
- d) The Agency will send all denials and applications granted with conditions by U.S. Registered or Certified Mail, return receipt requested. All other final Agency decisions may be sent by regular U.S. mail. The Agency will be deemed to have taken final action on the date that the notice of final action is mailed. Within 35 days after the Agency's final action, the applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of the Act.
- e) The Agency may undertake such investigations and request the applicant to furnish such proof as it deems necessary to verify the information and statements made in the application.
- (Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.913 Payment of Processing and Audit Fees

Beginning July 1, 1998, and annually thereafter, each transporter designating Illinois as its base state must pay a \$250 processing and audit fee for administering the uniform registration and permit program as set forth in Section 22.2 of the Act.

(Source: Added at 23 Ill. Reg. _____, effective _____)

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Section 809.914 Payment of Apportioned Mile Fees

a) Beginning July 1, 1998, and annually thereafter, all transporters whose base state is Illinois shall pay registration fees to the Agency for apportioned miles for all states that are participating in the uniform registration program and in which the transporter hauls hazardous waste. The Agency shall transmit to other participating states the registration fees collected each calendar quarter on behalf of the other participating states within 30 days after the last day of the calendar quarter. A transmittal report will accompany each payment and will summarize the fees collected and list the transporters from which the fees were collected. The level of hazardous material transportation activity within a state should be calculated using the instructions in the uniform application and should be based on two factors:

- 1) The percentage of mileage in the state; and
- 2) The percentage of the transporter's total activity that involves the transport of hazardous wastes.

b) For Illinois, the registration fee should be calculated by multiplying the percentage of Illinois transportation by the percentage of hazardous waste transportation multiplied by the total number of vehicles the transporter operates multiplied by the \$20 registration fee set forth in Section 22.2 of the Act.

c) A transporter should determine its percentage of Illinois transportation by dividing the number of miles it traveled in Illinois during the previous year by the number of miles it traveled nationwide during the previous year. If a transporter operates only in Illinois, it should use 100 percent of the miles traveled as its percentage of Illinois transportation. A transporter may separately calculate fees payable for each fleet the transporter operates.

d) A transporter shall determine its percentage of hazardous waste transportation by using a method based on general percentage ranges. A transporter shall determine its percentage of hazardous waste transportation as follows:

- 1) For less-than-truckload shipments, the transporter should divide the weight of the transporter's hazardous waste shipments transported during the previous year by the total weight of all shipments transported during the previous year.

2) For the truckload shipments, the transporter should divide the number of shipments transported during the previous year for which placarding, marking, or manifesting was required by the Code of Federal Regulations, Title 49, Part 172, by the total number of all shipments transported during the previous year.

- 3) A transporter that transports both truckload and less-than-truckload shipments of hazardous waste should determine its percentage of hazardous waste transportation by calculating the percentage of business that is hazardous waste transportation on a proportional basis with the percentage of business that is

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not hazardous waste transportation.

- 4) A transporter may use data from its most recent complete fiscal year or the most recent complete calendar year in calculating the percentages required in this Subpart for transportation conducted during the previous year. If the applicant elects to change the reporting year in a subsequent application, the applicant must inform the Agency of its intention in writing.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.915 Submittal of Fees

Any person who submits an application for a uniform registration and uniform permit to the Agency must determine the total fees owed in accordance with the instructions in the Final Report: Uniform Program Pilot Project, incorporated by reference in Section 809.104, the Act, and Sections 809.913 and 809.914 of this Part.

- a) The transporter must attach or enclose with the application a certified check, cashier's check or money order payable to the Treasurer, State of Illinois in the appropriate amount.
- b) When an application is denied, any fees submitted with the application will be non-refundable. Any subsequent refiling of the application will be considered a new application for which an application fee must be included in accordance with subsection (a) of this Section.
- c) When the Agency rejects an application because it is incomplete, any fees submitted will be non-refundable. The applicant can receive credit for the payment with a resubmitted application if the resubmittal is complete and returned to the Agency within 30 days after the initial date-stamped rejection.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.916 Previously Permitted Transporters

a) From July 1, 1998 until June 30, 1999, a transporter who previously obtained an Illinois Special Waste Transporter Permit is not required to obtain a uniform permit or uniform registration under this Subpart for the transportation of hazardous waste in Illinois until the transporter's special waste permit expires.

b) Transporters with permits expiring July 1, 1998 through June 30, 1999, and whose base state is Illinois shall submit uniform registration and permit applications to the Agency and should apply 90 days in advance of the expiration date of their current permit. If the Agency cannot timely review the uniform registration and permit applications within 90 days, the current Illinois Special Waste Transportation permit will be extended by operation of law for 30 days, or until the Agency takes

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final action on its applications, whichever occurs first. However, if the transporter fails to submit its new uniform registration and uniform permit applications 90 days in advance of the expiration of the current permit, the current Illinois Special Waste Transporter permit will expire on the expiration date indicated in the permit.

c) Beginning July 17, 1998, all Uniform Program permits issued by other states that have not expired or been revoked will be acceptable for the transportation of hazardous waste in Illinois.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.917 Uniform Registration and Uniform Permit Conditions

- When reviewing uniform registrations or uniform permits, the Agency may impose such conditions as are necessary to satisfy the requirements of the Uniform Program set forth in this Part.
- The applicant may deem any conditions imposed by the Agency as a denial of the uniform registration or uniform permit for purposes of review pursuant to Section 40 of the Act.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.918 Uniform Registration and Uniform Permit Revision

Changes to the uniform registration or uniform permit, or the applications issued pursuant to this Part can only be made by the U.S. Secretary of Transportation or other entity authorized pursuant to federal law. The Agency will revise any uniform registration and uniform permit issued under this Part to conform with any such changes and notify the permittee in writing. Failure of the Agency to issue a revised uniform registration or uniform permit is not a defense to a violation of any changed permit condition.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.919 Transfer of Uniform Registration and Uniform Permits

No uniform registration and permit is transferable from one person to another.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.920 Audits and Uniform Registration and Uniform Permit Revocation

The Agency will conduct audits to ensure that the transporter is accurately reporting its hazardous waste transportation activity. If a transporter

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violates any of the uniform permit conditions or fails to comply with any provisions of the Act or with any Board regulation, sanctions may be imposed as provided in the Act, including revocation of the uniform permit and uniform registration. As part of the audit process the Agency is authorized, within constitutional limitations, to do the following:

- Require transporters to allow Agency representatives to inspect or examine any commercial vehicle or facility operated by a transporter who transports hazardous waste in this State;
- Require transporters to produce papers, books, records, documents, or other evidentiary material necessary to determine if a transporter is accurately reporting its hazardous waste transportation operations and is otherwise complying with the Uniform Program; and
- Require transporters to allow Agency representatives to conduct investigations and audits necessary to determine if a transporter is entitled to a uniform permit or to make a suspension or revocation determination.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.921 Permit No Defense

The existence of a uniform permit or uniform registration under this Part does not provide the permittee with a defense to a violation of the Act or Board regulations, except for hauling hazardous waste without a uniform permit or uniform registration.

(Source: Added at 23 Ill. Reg. _____, effective _____)

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Section 809, APPENDIX A Old Rule Numbers Referenced (Repealed)

The following table is provided to aid in referencing old Board rule numbers to section numbers pursuant to codification:

Chapter-9:	Special-Waste	35-111-Adm-Code-809
Rule-101	Hauling	Section-809-1101
Rule-102		Section-809-1102
Rule-103		Section-809-1103
Rule-201		Section-809-2101
Rule-202		Section-809-2102
Rule-203		Section-809-2103
Rule-204		Section-809-2104
Rule-205		Section-809-2105
Rule-206		Section-809-2106
Rule-207		Section-809-2107
Rule-208		Section-809-2108
Rule-209		Section-809-2109
Rule-210		Section-809-2110
Rule-211		Section-809-2111
Rule-301		Section-809-3101
Rule-302		Section-809-3102
Rule-401		Section-809-4101
Rule-402		Section-809-4102
Rule-501		Section-809-5101
Rule-601		Section-809-6101
Rule-701		Section-809-7101
Rule-801		Section-809-8101
Rule-802		Section-809-8102
Rule-901		Section-809-9101
Rule-902		Section-809-9102
Rule-903		Section-809-9103
Rule-904		Section-809-9104
Rule-905		Section-809-9105
Rule-906		Section-809-9106

(Source: Repealed at 23 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Special Waste Classifications

2) Code Citation: 35 Ill. Adm. Code 811

3) Section Numbers: 811.402
811.403
Proposed Action:
Amended
Amended

4) Statutory Authority: 415 ILCS 5/22, 22.01, 22.2, and 27

5) A Complete Description of the Subjects and Issues Involved: A more complete description of this rulemaking may be found in the Board's opinion and order of December 17, 1998, in R89-29, which is available at the address below. Changes in the Act provided for a new Uniform Program for the transportation of hazardous waste which complements Illinois' existing program for the transportation of nonhazardous special waste. The bulk of the new rules provided for the in the Act are located in Part 809. In Part 809, Section 808.121, and Section 811.403 the term "hauler" has been used to denote those who transport special waste. The term "transporter" is now used. All references to the term "hauler" in Section 808.121 and Section 811.403 have been replaced by "transporter". In addition, Part 809: Subpart F has been repealed and replaced by amendments to Part 809: Subpart E. A reference to Subpart F in Section 811.402 has been changed to Subpart E.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
811.706	Amended	22 Ill. Reg. 21276
811.707	Amended	December 11, 1998
811.719	New Section	22 Ill. Reg. 21276
811.720	New Section	22 Ill. Reg. 21276
APPENDIX B	Amended	December 11, 1998
		December 11, 1998

10) Statement of Statewide Policy Objectives: This rulemaking neither creates

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nor expands a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking. Written comments concerning this rulemaking should reference K98-29 and be sent to:

Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Questions regarding this proposal may be directed to Joel Sternstein at 312-814-3665.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This will affect transporters of special waste in Illinois.

B) Reporting, bookkeeping, or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER 1: POLLUTION CONTROL BOARD

SUBCHAPTER 1: SOLID WASTE AND SPECIAL WASTE HAULING

PART 811

STANDARDS FOR NEW SOLID WASTE LANDFILLS

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section	
811.101	Scope and Applicability
811.102	Location Standards
811.103	Surface Water Drainage
811.104	Survey Controls
811.105	Compaction
811.106	Daily Cover
811.107	Operating Standards
811.108	Salvaging
811.109	Boundary Control
811.110	Closure and Written Closure Plan
811.111	Postclosure Maintenance

SUBPART B: INERT WASTE LANDFILLS

Section	
811.201	Scope and Applicability
811.202	Determination of Contaminated Leachate
811.203	Design Period
811.204	Final Cover
811.205	Final Slope and Stabilization
811.206	Leachate Sampling
811.207	Load Checking

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section	
811.301	Scope and Applicability
811.302	Facility Location
811.303	Design Period
811.304	Foundation and Mass Stability Analysis
811.305	Foundation Construction
811.306	Liner Systems
811.307	Leachate Drainage System
811.308	Leachate Collection System
811.309	Leachate Treatment and Disposal System
811.310	Landfill Gas Monitoring
811.311	Landfill Gas Management System

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811.706 Mechanisms for Financial Assurance
 811.707 Use of Multiple Financial Mechanisms
 811.708 Use of a Financial Mechanism for Multiple Sites
 811.709 Trust Fund for Unrelated Sites
 811.710 Trust Fund
 811.711 Surety Bond Guaranteeing Payment
 811.712 Surety Bond Guaranteeing Performance
 811.713 Letter of Credit
 811.714 Closure Insurance
 811.715 Self-insurance for Non-commercial Sites
 811.716 Local Government Financial Test
 811.717 Local Government Guarantee
 811.718 Discounting

APPENDIX A Financial Assurance Forms

ILLUSTRATION A Trust Agreement
 ILLUSTRATION B Certificate of Acknowledgment
 ILLUSTRATION C Forfeiture Bond
 ILLUSTRATION D Performance Bond
 ILLUSTRATION E Irrevocable Standby Letter of Credit
 ILLUSTRATION F Certificate of Insurance for Closure and/or Postclosure Care

ILLUSTRATION G Operator's Bond Without Surety

ILLUSTRATION H Operator's Bond With Parent Surety

ILLUSTRATION I Letter from Chief Financial Officer

APPENDIX B Section-by-Section correlation between the Standards of the RCRA Subtitle D MSWLF regulations and the Board's nonhazardous waste landfill regulations.

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17 and 28.1 and authorized by Section 27 of the Environmental Protection Act (415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1, and 27).

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15861, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12413, effective July 19, 1993; amended in R93-10 at 18 Ill. Reg. 1308, effective January 13, 1994; expedited correction at 18 Ill. Reg. 7504, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12481, effective August 1, 1994; amended in R95-13 at 19 Ill. Reg. 12257, effective August 15, 1995; amended in R96-1 at 20 Ill. Reg. 12000, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15831, effective November 25, 1997; amended in R98-9 at 22 Ill. Reg. 11491, effective June 23, 1998; amended in R98-29 at 23 Ill. Reg. _____, effective _____.

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

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811.312 Landfill Gas Processing and Disposal System
 811.313 Intermediate Cover
 811.314 Final Cover System
 811.315 Hydrogeological Site Investigations
 811.316 Plugging and Sealing of Drill Holes
 811.317 Groundwater Impact Assessment
 811.318 Design, Construction, and Operation of Groundwater Monitoring Systems
 811.319 Groundwater Monitoring Programs
 811.320 Groundwater Quality Standards
 811.321 Waste Placement
 811.322 Final Slope and Stabilization
 811.323 Load Checking Program
 811.324 Corrective Action Measures for MSWLF Units
 811.325 Selection of remedy for MSWLF Units
 811.326 Implementation of the corrective action program at MSWLF Units

SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

Section
 811.401 Scope and Applicability
 811.402 Notice to Generators and Transporters
 811.403 Special Waste Manifests
 811.404 Identification Record
 811.405 Recordkeeping Requirements
 811.406 Procedures for Excluding Regulated Hazardous Wastes

SUBPART E: CONSTRUCTION QUALITY ASSURANCE PROGRAMS

Section
 811.501 Scope and Applicability
 811.502 Duties and Qualifications of Key Personnel
 811.503 Inspection Activities
 811.504 Sampling Requirements
 811.505 Documentation
 811.506 Foundations and Subbases
 811.507 Compacted Earth Liners
 811.508 Geomembranes
 811.509 Leachate Collection Systems

SUBPART G: FINANCIAL ASSURANCE

Section
 811.701 Scope, Applicability and Definitions
 811.701 Upgrading Financial Assurance
 811.702 Release of Financial Institution
 811.703 Application of Proceeds and Appeals
 811.704 Closure and Postclosure Care Cost Estimates
 811.705 Revision of Cost Estimate

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SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

Section 811.402 Notice to Generators and Transporters

A prominent sign at the entrance to each solid waste management facility shall state that disposal of hazardous waste is prohibited and, if it is a facility permitted by the Agency to accept special wastes pursuant to 35 Ill. Adm. Code 809, also state that special waste will be accepted and, if accompanied by an identification record and a manifest, such waste is exempted from the manifest requirements of this Part and 35 Ill. Adm. Code 809 Subpart E.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 811.403 Special Waste Manifests

a) Each special waste accepted for disposal at a permitted solid waste management facility shall be accompanied by a manifest containing the following information, unless such special waste is disposed at an onsite facility and exempted, in accordance with 35 Ill. Adm. Code 809.211, from the manifest requirement:

- 1) The name of the generator of the special waste;
 - 2) When and where the special waste was generated;
 - 3) The name of the special waste transporter hauler;
 - 4) The name of the solid waste management facility to which it is shipped as a final destination point;
 - 5) The date of delivery;
 - 6) The name, waste stream permit number (if applicable) and quantity of special waste delivered to the transporter hauler; special waste to be accepted at the facility;
 - 7) The signature of the person who delivered the special waste to the special waste transporter hauler, acknowledging such delivery;
 - 8) The signature of the special waste transporter hauler, acknowledging receipt of the special wastes; and
 - 9) The signature of the person who accepted the special waste at its final destination, acknowledging acceptance of the special waste.
- b) A permitted facility that accepts special waste must be designated on the manifest as the final destination point. Any subsequent delivery of the special waste or any portion or product thereof to a special waste transporter hauler shall be conducted under a transportation record initiated by the permitted solid waste management facility.
- c) Distribution of Manifests After Delivery
- 1) The receiving solid waste management facility, shall accept special waste only if accompanied by three copies of the manifest from the transporter hauler. The transporter hauler shall retain one copy.
 - 2) The receiving solid waste management facility shall:
 - A) Send one copy of the completed transportation record to the

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person who delivered the special waste to the special waste transporter hauler (usually the generator, or another special waste management facility));

- B) Send one copy of each signed manifest to the Agency in accordance with the requirements of 35 Ill. Adm. Code 809; and
 - C) Send information on rejected loads to the Agency in a quarterly report.
- d) Every person who delivers special waste to a special waste transporter hauler, every person who accepts special waste from a special waste transporter hauler, and every special waste transporter hauler shall retain a copy of the special waste transportation record as of each special waste transaction. These copies shall be retained for three years, and shall be made available at reasonable times for inspection and photocopying by the Agency pursuant to Section 4(d) of the Act.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Optometric Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1320
- 3) Section Numbers:
1320.210
Proposed Action:
Amendment
- 4) Statutory Authority: The Illinois Optometric Practice Act of 1987 [225 ILCS 80].
- 5) A Complete Description of the Subjects and Issues Involved: Section 1320.210 will no longer require applicants for diagnostic certification to complete their education or a diagnostics course 2 years prior to application. Since all optometric schools now teach diagnostics as a part of their curriculum and the National Board examination includes diagnostic questions, the 2 year time requirement is obsolete.
- 6) Will these proposed amendments replace emergency rules currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.
- 11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield IL 62786
217/785-0813

All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing the services of optometrists.
- B) Reporting, bookkeeping or other procedures required for compliance:
None

DEPARTMENT OF PROFESSIONAL REGULATION
NOTICE OF PROPOSED AMENDMENTS

- C) Types of professional skills necessary for compliance: Optometry skills are required for licensure.
- 13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
 CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
 SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1320

OPTOMETRIC PRACTICE ACT OF 1987

SUBPART A: OPTOMETRY

Section	
1320.20	Approved Programs of Optometry
1320.30	Application for Licensure
1320.40	Examinations
1320.45	Fees (Emergency Expired)
1320.50	Endorsement
1320.55	Renewals (Renumbered)
1320.60	Transfer Status
1320.70	Restoration
1320.80	Continuing Education
1320.90	Minimum Eye Examination
1320.95	Minimum Equipment List
1320.100	Practice of Optometry
1320.110	Advertising
1320.120	Granting Variances (Renumbered)

SUBPART B: DIAGNOSTIC TOPICAL OCULAR PHARMACEUTICALS

Section	
1320.200	Standards
1320.210	Application for Diagnostic Certification
1320.220	Approved Diagnostic Topical Ocular Pharmacological Training
1320.230	Approved Diagnostic Topical Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act
1320.240	Restoration of Diagnostic Certification
1320.250	Endorsement of Diagnostic Certification
1320.260	Renewal of Certification (Repeated)
1320.270	Display of Certification (Repeated)

SUBPART C: THERAPEUTIC OCULAR PHARMACEUTICAL AGENTS

Section	
1320.300	Definitions and Standards
1320.310	Application for Therapeutic Certification
1320.315	Controlled Substance License Requirement
1320.320	Approved Therapeutic Ocular Training
1320.330	Approved Therapeutic Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act
1320.340	Restoration of Therapeutic Certification

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1320.350 Endorsement of Therapeutic Certification

SUBPART D: GENERAL

Section	
1320.400	Fees
1320.410	Ancillary Licenses
1320.420	Renewals
1320.430	Granting Variances

AUTHORITY: Implementing the Illinois Optometric Practice Act of 1987 [225 ILCS 80] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 5 Ill. Reg. 5869, effective June 1, 1981; codified at 5 Ill. Reg. 11046; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; emergency amendment at 6 Ill. Reg. 2273, effective January 29, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 10032, effective August 1, 1982; amended at 9 Ill. Reg. 1092, effective January 11, 1985; amended at 10 Ill. Reg. 7340, effective April 16, 1986; transferred from Chapter I, 68 Ill. Adm. Code 320 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1320 (Department of Professional Regulation) pursuant to P.A. 85-275, effective January 1, 1988, at 12 Ill. Reg. 1821; emergency amendment at 12 Ill. Reg. 1925, effective January 1, 1988, for a maximum of 150 days; emergency expired May 30, 1988; amended at 12 Ill. Reg. 11447, effective June 27, 1988; amended at 13 Ill. Reg. 6994, effective April 25, 1989; amended at 14 Ill. Reg. 1428, effective August 15, 1990; amended at 17 Ill. Reg. 18096, effective October 4, 1993; amended at 17 Ill. Reg. 21501, effective December 1, 1993; amended at 29 Ill. Reg. 117130, effective December 19, 1995; amended at 31 Ill. Reg. 3086, effective January 4, 1996; amended at 21 Ill. Reg. 16040, effective November 24, 1997; amended at 23 Ill. Reg. _____, effective _____.

SUBPART B: DIAGNOSTIC TOPICAL OCULAR PHARMACEUTICALS

Section 1320.210 Application for Diagnostic Certification

A licensed optometrist seeking certification to use diagnostic topical ocular pharmaceutical agents for examination purposes shall file an application with the Department, on forms provided by the Department. The application shall include:

- a) Either
- 1) Certification that the applicant has graduated within 2-years prior-to-application-for--diagnostic--certification from an approved 4 year optometry program with diagnostic training and proof of passage of all parts of the NBBO examination; or
 - 2) Certification of passage of a diagnostic topical ocular

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pharmaceutical course set forth in Section 1320.220 of this Part within 2 years prior to expiration;

b) The required fee set forth in Section 1320.400(a)(2) of this Part.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3) Section Numbers: Proposed Action:
140.461 Amendment
140.462 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: These proposed amendments to the Department's rules regarding clinic services are intended to implement the School Based/Linked Clinic Program as a specific provider type under the Department's Medical Assistance Program. School based/linked health centers have been providing services for a number of years with Medicaid eligible students receiving coverage on a case by case, fee for service basis. However, in an effort to insure that eligible students receive necessary health care services, the Department has submitted a State Plan Amendment to the Health Care Financing Administration concerning recognition of school based/linked health centers as a specific provider type.

The Department has worked with the Department of Human Services (DHS) and advocates for student health care services in developing the school health center initiative to improve access to necessary services. Recognition of such health centers as a specific provider type under Medicaid is being implemented in conjunction with DHS as the certification entity. Proposed rules at 77 Ill. Adm. Code 2200, which describe DHS certification standards, were published on August 7, 1998, at 22 Ill. Reg. 14377. These proposed rules reflect the School Based Health Clinic Guidelines, implemented in 1986, as a guide for the centers. These guidelines have been used as the basis for planning, development, monitoring, evaluation and quality assurance. They have provided standards in areas including community outreach, administration and organizational structure, confidentiality of services, professional staffing and work requirements, record maintenance, health education requirements, release of information, scope of services, compliance and access standards, care coordination and student rights and responsibilities. Medical services provided at school based/linked health centers must also be in compliance with the Guidelines of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists. The Department's proposed amendments at 140.461 and 140.462 specify that school based/linked health clinics must be certified by DHS as being in compliance with the minimum standards established at 77 Ill. Adm. Code 2200. The proposed amendments at 140.463 describe the services to be covered under Medicaid at school based/linked health centers.

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The mission of school based/linked health centers is to improve the overall physical and emotional health of students by promoting healthy lifestyles and by providing available and accessible preventive health care when it is needed. The specific goals of such centers are to improve student knowledge of preventive health care; provide early detection and early treatment of chronic and acute health problems; improve decision making about health matters and reduce risk-taking behaviors; develop health promoting behaviors; provide preventive care; provide initial emergency treatments and appropriate subsequent referrals; detect signs of emotional stress requiring treatment, counseling or referral; facilitate the use of health care systems by establishing links with primary health care providers; and promote continuing comprehensive health care for students.

School based health centers are located in schools or on school grounds and serve at least the students attending that school. School linked health centers are located off school grounds and a formal relationship exists to serve students attending a particular school or multiple schools within the district. Services are available to eligible students who have obtained written parental consent, or who are 18 years of age, or who are otherwise able to give their own consent.

The Department expects any budgetary impact resulting from these proposed amendments to be minimal since services have been covered for eligible clients in school based/linked centers for a number of years.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
140.430	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.431	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.432	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.433	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.434	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.438	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.463	Amendment	December 18, 1998 (22 Ill. Reg. 21798)
140.467	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.560	Amendment	November 10, 1998 (22 Ill. Reg. 20511)

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

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11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
201 South Grand Ave., 3rd Floor
Springfield, Illinois 62763
(217) 524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Schools, school-based and school-linked health clinics will be affected by this proposed rulemaking. The Department is unsure whether or not any of the affected entities may qualify as small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: It was inadvertently overlooked when the two most recent regulatory agendas were published.

The full text of the proposed amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section
140.1 Incorporation By Reference
140.2 Medical Assistance Programs
140.3 Covered Medical Services Under Medical Assistance Programs
140.4 Covered Medical Services Under AFDC-WAIV for non-pregnant persons who are 18 years of age or older (Repealed)
140.5 Covered Medical Services Under General Assistance
140.6 Medical Services Not Covered
140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
140.8 Medical Assistance For Qualified Severely Impaired Individuals
140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-WAIV if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section
140.11 Enrollment Conditions for Medical Providers
140.12 Participation Requirements for Medical Providers
140.13 Definitions
140.14 Denial of Application to Participate in the Medical Assistance Program
140.15 Recovery of Money
140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.18 Effect of Termination on Individuals Associated with Vendor
140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
140.20 Submittal of Claims
140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
140.22 Magnetic Tape Billings
140.23 Payment of Claims
140.24 Payment Procedures
140.25 Overpayment or Underpayment of Claims
140.26 Payment to Factors Prohibited

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140.27 Assignment of Vendor Payments
140.28 Record Requirements for Medical Providers
140.30 Audits
140.31 Emergency Services Audits
140.32 Prohibition on Participation, and Special Permission for Participation
140.33 Publication of List of Terminated, Suspended or Barred Entities
140.35 False Reporting and Other Fraudulent Activities
140.40 Prior Approval for Medical Services or Items
140.41 Prior Approval in Cases of Emergency
140.42 Limitation on Prior Approval
140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55 Recipient Eligibility Verification (REV) System
140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice
140.72 Voucher Advance Payment and Expedited Payments
140.73 Drug Manual (Recodified)
140.74 Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section
140.80 Hospital Provider Fund
140.82 Developmentally Disabled Care Provider Fund
140.84 Long Term Care Provider Fund
140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95 Hospital Services Trust Fund
140.96 General Requirements (Recodified)
140.97 Special Requirements (Recodified)
140.98 Covered Hospital Services (Recodified)
140.99 Hospital Services Not Covered (Recodified)
140.100 Limitation on Hospital Services (Recodified)
140.101 Transplants (Recodified)
140.102 Heart Transplants (Recodified)
140.103 Liver Transplants (Recodified)
140.104 Bone Marrow Transplants (Recodified)
140.110 Disproportionate Share Hospital Adjustments (Recodified)
140.116 Payment for Inpatient Services for GA (Recodified)
140.117 Hospital Outpatient and Clinic Services (Recodified)
140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203 Limits on Length of Stay by Diagnosis (Recodified)
140.300 Payment for pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350 Copayments (Recodified)
140.360 Payment Methodology (Recodified)

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140.361 Non-Participating Hospitals (Recodified)
 140.362 Pre July 1, 1989 Services (Recodified)
 140.363 Post June 30, 1989 Services (Recodified)
 140.364 Prepayment Review (Recodified)
 140.365 Base Year Costs (Recodified)
 140.366 Restructuring Adjustment (Recodified)
 140.367 Inflation Adjustment (Recodified)
 140.368 Volume Adjustment (Repealed)
 140.369 Groupings (Recodified)
 140.370 Rate Calculation (Recodified)
 140.371 Payment (Recodified)
 140.372 Review Procedure (Recodified)
 140.373 Utilization (Repealed)
 140.374 Alternatives (Recodified)
 140.375 Exemptions (Recodified)
 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.391 Definitions (Recodified)
 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section
 140.400 Payment to Practitioners, Nurses and Laboratories
 140.410 Physicians' Services
 140.411 Covered Services By Physicians
 140.412 Services Not Covered By Physicians
 140.413 Limitation on Physician Services
 140.414 Requirement for Prescriptions and Dispensing of Pharmacy Items - Physicians
 140.415 Optometric Services and Materials
 140.417 Limitations on Optometric Services
 140.418 Department of Corrections Laboratory
 140.420 Dental Services
 140.421 Limitations on Dental Services
 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items - Dentists
 140.425 Podiatry Services
 140.426 Limitations on Podiatry Services
 140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items - Podiatry
 140.428 Chiropractic Services
 140.429 Limitations on Chiropractic Services (Repealed)
 140.430 Independent Laboratory Services
 140.431 Services Not Covered by Independent Laboratory
 140.432 Limitations on Independent Laboratory Services
 140.433 Payment for Laboratory Services
 140.434 Record Requirements for Independent Laboratories
 140.435 Nurse Services
 140.436 Limitations on Nurse Services
 140.440 Pharmacy Services
 140.441 Pharmacy Services Not Covered
 140.442 Prior Approval of Prescriptions
 140.443 Filling of Prescriptions
 140.444 Compounded Prescriptions
 140.445 Legend Prescription Items (Not Compounded)
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 140.448 Returned Pharmacy Items
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 140.450 Record Requirements for Pharmacies
 140.451 Prospective Drug Review and Patient Counseling
 140.452 Mental Health Clinic Services
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 140.458 Prior Approval for Therapy Services
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 140.460 Clinic Services
 140.461 Clinic Participation, Data and Certification Requirements
 140.462 Covered Services in Clinics
 140.463 Clinic Service Payment
 140.464 Healthy Moms/Healthy Kids Managed Care Clinics (Repealed)
 140.465 Speech and Hearing Clinics (Repealed)
 140.466 Rural Health Clinics
 140.467 Independent Clinics
 140.468 Hospice
 140.469 Home Health Services
 140.470 Home Health Covered Services
 140.471 Types of Home Health Services
 140.472 Prior Approval for Home Health Services
 140.473 Prior Approval for Home Health Services
 140.474 Medical Equipment, Supplies and Prosthetic Devices
 140.475 Medical Equipment, Supplies and Prosthetic Devices for Which Payment Will Not Be Made
 140.476 Limitations on Equipment, Supplies and Prosthetic Devices
 140.477 Limitations on Equipment, Supplies and Prosthetic Devices
 140.478 Prior Approval for Medical Equipment, Supplies and Prosthetic Devices
 140.479 Limitations, Medical Supplies

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140.429 Limitations on Chiropractic Services (Repealed)
 140.430 Independent Laboratory Services
 140.431 Services Not Covered by Independent Laboratory
 140.432 Limitations on Independent Laboratory Services
 140.433 Payment for Laboratory Services
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 140.436 Limitations on Nurse Services
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 140.442 Prior Approval of Prescriptions
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 140.445 Legend Prescription Items (Not Compounded)
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 140.452 Mental Health Clinic Services
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 140.454 Types of Mental Health Clinic Services
 140.455 Payment for Mental Health Clinic Services
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 140.457 Therapy Services
 140.458 Prior Approval for Therapy Services
 140.459 Payment for Therapy Services
 140.460 Clinic Services
 140.461 Clinic Participation, Data and Certification Requirements
 140.462 Covered Services in Clinics
 140.463 Clinic Service Payment
 140.464 Healthy Moms/Healthy Kids Managed Care Clinics (Repealed)
 140.465 Speech and Hearing Clinics (Repealed)
 140.466 Rural Health Clinics
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 140.477 Limitations on Equipment, Supplies and Prosthetic Devices
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140.480	Equipment Rental Limitations
140.481	Payment for Medical Equipment, Supplies and Prosthetic Devices
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140.483	Limitations on Family Planning Services
140.484	Payment for Family Planning Services
140.485	Healthy Kids Program
140.486	Limitations on Medichex Services (Repealed)
140.487	Healthy Kids Program Timeliness Standards
140.488	Periodicity Schedule, Immunizations and Diagnostic Laboratory Procedures
140.490	Medical Transportation
140.491	Limitations on Medical Transportation
140.492	Payment for Medical Transportation
140.493	Payment for Helicopter Transportation
140.495	Psychological Services
140.496	Payment for Psychological Services
140.497	Hearing Aids
SUBPART E: GROUP CARE	
140.500	Long Term Care Services
140.502	Cessation of Payment at Federal Direction
140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Continuation of Payment Because of Threat To Life (Repealed)
140.506	Provider Voluntary Withdrawal
140.507	Continuation of Provider Agreement
140.510	Determination of Need for Group Care
140.511	Long Term Care Services Covered by Department Payment
140.512	Utilization Control
140.513	Utilization Review Plan (Repealed)
140.514	Certifications and Recertifications of Care
140.515	Management of Recipient Funds--Personal Allowance Funds
140.516	Recipient Management of Funds
140.517	Correspondent Management of Funds
140.518	Facility Management of Funds
140.519	Use or Accumulation of Funds
140.520	Management of Recipient Funds--Local Office Responsibility
140.521	Room and Board Accounts
140.522	Reconciliation of Recipient Funds
140.523	Bed Reserves
140.524	Cessation of Payment Due to Loss of License
140.525	Quality Incentive Program (QUIP) Payment Levels
140.526	Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed)
140.527	Quality Incentive Survey (Repealed)
140.528	Payment of Quality Incentive (Repealed)

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140.529	Reviews (Repealed)
140.530	Basix of Payment for Long Term Care Services
140.531	General Service Costs
140.532	Health Care Costs
140.533	General Administration Costs
140.534	Ownership Costs
140.535	Costs for Interest, Taxes and Rent
140.536	Organization and Pre-Operating Costs
140.537	Payments to Related Organizations
140.538	Special Costs
140.539	Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation
140.540	Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
140.541	Salaries Paid to Owners or Related Parties
140.542	Cost Reports-Filing Requirements
140.543	Time Standards for Filing Cost Reports
140.544	Access to Cost Reports (Repealed)
140.545	Penalty for Failure to File Cost Reports
140.550	Update of Operating Costs
140.551	General Service Costs
140.552	Nursing and Program Costs
140.553	General Administrative Costs
140.554	Component Inflation Index
140.555	Minimum Wage
140.560	Components of the Base Rate Determination
140.561	Support Costs Components
140.562	Nursing Costs
140.563	Capital Costs
140.565	Kosher Kitchen Reimbursement
140.566	Out-of-State Placement
140.567	Level II Incentive Payments (Repealed)
140.568	Duration of Incentive Payments (Repealed)
140.569	Clients With Exceptional Care Needs
140.570	Capital Rate Component Determination
140.571	Capital Rate Calculation
140.572	Total Capital Rate
140.573	Other Capital Provisions
140.574	Capital Rates for Rented Facilities
140.575	Newly Constructed Facilities (Repealed)
140.576	Renovations (Repealed)
140.577	Capital Costs for Rented Facilities (Renumbered)
140.578	Property Taxes
140.579	Specialized Living Centers
140.580	Wanted Capital Improvements (Repealed)
140.581	Qualifying as Mandated Capital Improvement (Repealed)
140.582	Cost Adjustments

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140.583 Campus Facilities
 140.584 Illinois Municipal Retirement Fund (IMRF)
 140.590 Audit and Record Requirements
 140.642 Screening Assessment for Nursing Facility and Alternative Residential Settings and Services
 140.643 In-Home Care Program
 140.645 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21
 140.646 Reimbursement for Developmental Training (DT) Services for Individuals with Developmental Disabilities Who Reside in Long Term Care (ICF AND SNF) and Residential (ICF/MR) Facilities
 140.647 Description of Developmental Training (DT) Services
 140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
 140.649 Effective Dates of Reimbursement for Developmental Training (DT) Programs
 140.650 Certification of Developmental Training (DT) Programs
 140.651 Decertification of Day Programs
 140.652 Terms of Assurances and Contracts
 140.660 Effective Date Of Payment Rate
 140.700 Discharge of Long Term Care Residents
 140.830 Appeals of Rate Determinations
 140.835 Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: MEDICAID PARTNERSHIP PROGRAM

Section
 140.850 General Description (Repealed)
 140.855 Definition of Terms (Repealed)
 140.860 Covered Services (Repealed)
 140.865 Sponsor Qualifications (Repealed)
 140.870 Sponsor Responsibilities (Repealed)
 140.875 Department Responsibilities (Repealed)
 140.880 Provider Qualifications (Repealed)
 140.885 Provider Responsibilities (Repealed)
 140.890 Payment Methodology (Repealed)
 140.895 Contract Monitoring (Repealed)
 140.896 Reimbursement For Program Costs (Active Treatment) For Clients In Long Term Care Facilities For the Developmentally Disabled (Repealed)
 140.900 Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Repealed)
 140.901 Functional Areas of Needs (Repealed)
 140.902 Service Needs (Repealed)
 140.903 Definitions (Repealed)
 140.904 Times and Staff Levels (Repealed)
 140.905 Statewide Rates (Repealed)
 140.906 Reconsiderations (Repealed)

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140.907 Midnight Census Report (Repealed)
 140.908 Times and Staff Levels (Repealed)
 140.909 Statewide Rates (Repealed)
 140.910 Referrals (Repealed)
 140.911 Basic Rehabilitation Aide Training Program (Repealed)
 140.912 Interim Nursing Rates (Repealed)

SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section
 140.920 General Description
 140.922 Covered Services
 140.924 Maternal and Child Health Provider Participation Requirements
 140.926 Client Eligibility (Repealed)
 140.928 Client Enrollment and Program Components (Repealed)
 140.930 Reimbursement
 140.932 Payment Authorization for Referrals (Repealed)

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section
 140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Repealed)
 140.942 Definition of Terms (Repealed)
 140.944 Notification of Negotiations (Repealed)
 140.946 Hospital Participation in ICARE Program Negotiations (Repealed)
 140.948 Negotiation Procedures (Repealed)
 140.950 Factors Considered in Awarding ICARE Contracts (Repealed)
 140.952 Closing an ICARE Area (Repealed)
 140.954 Administrative Review (Repealed)
 140.956 Payments to Contracting Hospitals (Repealed)
 140.958 Admitting and Clinical Privileges (Repealed)
 140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Repealed)
 140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Repealed)
 140.964 Contract Monitoring (Repealed)
 140.966 Transfer of Recipients (Repealed)
 140.968 Validity of Contracts (Repealed)
 140.970 Termination of ICARE Contracts (Repealed)
 140.972 Hospital Services Procurement Advisory Board (Repealed)

TABLE A Medichex Recommended Screening Procedures (Repealed)
 TABLE B Geographic Areas
 TABLE C Capital Cost Areas
 TABLE D Schedule of Dental Procedures
 TABLE E Time Limits for Processing of Prior Approval Requests

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TABLE F	Podiatry Service Schedule
TABLE G	Travel Distance Standards
TABLE H	Areas of Major Life Activity
TABLE I	Staff Time and Allocation for Training Programs (Recodified)
TABLE J	HSA Grouping (Repealed)
TABLE K	Services Qualifying for 10% Add-On (Repealed)
TABLE L	Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
TABLE M	Enhanced Rates for Maternal and Child Health Provider Services

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ICs 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ICs 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17398, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Reg. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days;

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amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 26, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986; for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 32, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Reg. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7464, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 9, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; for a maximum of 150 days; amended at 12 Ill. Reg. 1960, effective January 1, 1988; for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140-Table H and 140-Table I recodified to 89 Ill. Reg. Code 147.5 thru 147.205 and 147-Table A and 147-Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Reg. Code 149.5 thru 149.325 at 12

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Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 reclassified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.936 reclassified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 reclassified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990, for a maximum of 150 days; emergency expired 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 24, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective

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October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17793, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993;

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amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22564, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 26, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. _____, effective _____.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.461 Clinic Participation, Data and Certification Requirements

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- a) Hospital-based organized clinics must:
 - 1) Have an administrative structure, staff program, physical setting, and equipment to provide comprehensive medical care;
 - 2) Agree to assume complete responsibility for diagnosis and treatment of the patients accepted by the clinic, or provide, at no additional cost to the Department, for the acquisition of these services through contractual arrangements with external medical providers;
 - 3) Be adjacent to or on the premises of the hospital and be licensed under the Hospital Licensing Act or the University of Illinois Hospital Act; and
 - 4) Meet the applicable requirements of 89 Ill. Adm. Code 148.40(d).
- b) Encounter rate clinics must participate in the Medical Assistance Program as an encounter rate clinic as of July 1, 1998, or be a clinic operated by a county with a population of over three million. Individual practitioners associated with such centers may apply for participation in the Medical Assistance program in their individual capacities. In order to participate in the Maternal and Child Health program, as described in Subpart G, encounter rate clinics shall be required to meet the additional participation requirements described in Section 140.924(a)(2).
- c) Rural health clinics must be certified by the Health Care Financing Administration as meeting the requirements for Medicare participation.
- d) Federally Qualified Health Centers (FQHC):
 - 1) Must be Health Centers which:
 - A) receive a grant under Section 329, 330 or 340 of the Public Health Service Act; or
 - B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, are determined to meet the requirements for receiving such a grant.
 - 2) Section 4602 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90), which amended Section 1902(a)(55) of the Social Security Act (42 USC Section 1396a(a)(55)), requires states to receive and initially process Medicaid applications from low-income pregnant women and children under 19 years of age the age--of--49 at locations other than the local Department of Human Services (DHS) office. Such a site is referred to as an outstation.
 - A) Outstations will be located at those FQHCs which the Department determines serve heavily Medicaid populated areas. For areas in which the Department determines that maintaining outstation workers is not economical, the DHS local office will continue to be the application location.
 - B) The FQHCs, which will provide outstation eligibility staff to accept and assist in the initial processing of the Medicaid application for pregnant women and children, will forward the completed application to the appropriate DHS

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local office. Initial processing means accepting and completing the application, providing information and referrals, obtaining required documentation to complete processing of the application, assuring that the information contained on the application form is complete and conducting any necessary interviews. Neither the FQHCs nor the outstation workers will evaluate the information contained on the application, nor make any determination of eligibility or ineligibility. The DHS local office is responsible for these functions.

- C) Costs allowable under the federal outstation mandate for completing the Medicaid application will be itemized in Section B of Schedule I of the FQHC Medicaid cost report and will be provided annually in the FQHC cost reporting process. These allowable costs will be collected, computed and calculated, and will result in the establishment of an outstation administrative rate and a Medicaid rate. The allowable costs are:

- i) Salary of outstation worker;
- ii) Fringe benefits;
- iii) Training;
- iv) Travel; and
- v) Supplies.

- D) FQHC outstation workers must receive certification through the Maternal and Child Health (MCH) process training by the Department before they begin to perform eligibility processing functions. Failure to become certified results in any MCH application completed by an ineligible worker being non-allowed on the cost report.

- E) FQHCs must have adequate staff trained with proper backup to accommodate unforeseen problems. FQHCs must be able to meet the demand of this initiative, either using staff at one location or rotating staff as dictated by workload or staffing availability. The FQHC must have staff available at each outstation location during regular office operating hours.

- F) Outstation intake staff may perform other FQHC intake processing functions, but the time spent on outstation activities must be documented and must be identifiable for cost reporting and auditing purposes.

- G) The FQHC must display a notice in a prominent place at the outstation location advising potential applicants of the times that outstation intake workers will be available. The notice must include a telephone number that applicants may call for assistance.

- H) The FQHC must comply with federal and State laws and regulations governing the provision of adequate notice to persons who are blind or deaf or who are unable to read or

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understand the English language.

- e) Individual practitioners associated with such centers may apply for participation in the Medical Assistance Program in their individual capacities.

- f) Maternal and Child Health Clinics

- 1) Types of Clinics
The following clinics shall qualify as Maternal and Child Health Clinics:

- A) Certified Hospital Ambulatory Primary Care Centers (CHAPCC), which are hospital-based organized outpatient clinics, as described in subsection (a) above, meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide ambulatory primary care to Medicaid children from birth through 20 years of age, and pregnant women in a non-emergency room setting. At least 50 percent of all staff physicians providing care in a CHAPCC must routinely provide obstetric, pediatric, internal medicine, or family practice care in the clinic setting, and at least 50 percent of patient visits to the CHAPCC must be for primary care.

- B) Certified Hospital Organized Satellite Clinics (CHOSC), which are clinics meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that are owned, operated, and/or managed by a hospital but do not qualify as hospital-based organized clinics, as described in subsection (a) above, because they are not located adjacent to or on the premises of the hospital or are not licensed under the Hospital Licensing Act or the University of Illinois Hospital Act. Through staff and supporting resources, these clinics provide ambulatory primary care in a non-emergency setting to Medicaid children from birth through 20 years of age, and to pregnant women. At least 50 percent of all staff physicians providing care in a CHOSC must routinely provide obstetric, pediatric, internal medicine, or family practice care in the clinic setting, and at least 50 percent of patient visits to the CHOSC must be for primary care. Primary care consists of basic health services provided by a physician or other qualified medical professional to maintain the day-to-day health status of a patient, without requiring the level of medical technology and specialized expertise necessary for the provision of secondary and tertiary care. CHOSCs shall meet the requirements in subsections (a)(1) and (a)(2) above.

- C) Certified Obstetrical Ambulatory Care Centers (COBACC), which are hospital-based organized clinic entities, as described in subsection (a) above, meeting the

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participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide primary care and specialty services to Medicaid-eligible pregnant women, especially those determined to be non-compliant or at high risk, in an outpatient setting.

D) Certified Pediatric Ambulatory Care Centers (CPACC), which are hospital-based organized clinic entities, as described in subsection (a) above, owned and operated by a hospital as described in 89 Ill. Adm. Code 149-50(c)(3), and meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide pediatric primary care and specialty services as described in Section 140.462(e)(3)(C) to Medicaid enrolled children with specialty needs, from birth through 20 years of age in an outpatient setting. Hospitals with CPACCs must also provide primary care for at least 1,500 children, either through its CPACC or through a CHAPCC, CHOSC or encounter rate clinic operated by the same hospital. Hospitals unable to meet this volume requirement must agree to serve as a specialty referral site for another hospital operating a CPACC through a written agreement submitted to the Department.

2) General Participation Requirements

In addition to the Maternal and Child Health participation requirements described in Section 140.924(a)(1), the Maternal and Child Health clinics identified in subsection (f)(1) above must:

- A) Be operated by a disproportionate share hospital, as described in 89 Ill. Adm. Code 148.120, be staffed by board certified/eligible physicians who have hospital admitting and/or delivery privileges, be operated by a hospital in an organized corporate network of hospitals having a total of more than 1,000 staffed beds, and agree to provide care for a minimum of 100 pregnant women or children; or be a primary care teaching site of an organized academic department of:
 - i) In the case of clinics described in subsections (f)(1)(A) and (f)(1)(B) above, a pediatric or family practice residency program accredited by the American Accreditation Council for Graduate Medical Education or other published source of accrediting information.
 - ii) In the case of clinics described in subsection (f)(1)(C) above, an obstetrical residency program accredited by the American Accreditation Council for Graduate Medical Education or other published source of accrediting information with at least 130 full-time equivalent residents.
 - iii) In the case of clinics described in subsection (f)(1)(D) above, a pediatric or family practice

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residency program accredited by the American Accreditation Council for Graduate Medical Education or other published source of accrediting information with at least 130 full-time equivalent residents;

B) Under the direction of a board certified/eligible physician who has hospital admitting and/or delivery privileges and provides direct supervision to residents practicing in the certified ambulatory site, provide:

- i) In the case of clinics described in subsections (f)(1)(A) and (f)(1)(B) above, primary care.
 - ii) In the case of clinics described in subsection (f)(1)(C) above, obstetric and specialty services.
 - iii) In the case of clinics described in subsection (f)(1)(D) above, primary care and specialty services;
- C) Maintain a formal, ongoing quality assurance program that meets the minimum standards of the Joint Commission on Accreditation of Health Care Organizations (JCAHO);
- D) Provide historical evidence of fiscal solvency and financial projections for the future, in a manner specified by the Department; and
- E) Utilize a formal client tracking and care management system that affords timely maintenance of, access to, and continuity of medical records without compromising client confidentiality.

3) Special Participation Requirements

In addition to the Maternal and Child Health provider participation requirements described in Section 140.924(a)(1), and the general participation requirements described in subsection (f)(2) above, special participation requirements shall apply as follows:

- A) Clinics described in subsections (f)(1)(A) and (f)(1)(B) above must:
 - i) Serve a total population that includes at least 20% Medicaid and medically indigent clients;
 - ii) Perform a risk assessment on pregnant women assigned to them in order to determine if the woman is at high risk; and
 - iii) Provide or arrange for specialty services when needed by pregnant women or children.
- B) Clinics described in subsection (f)(1)(C) must:
 - i) Be a distinct department of a hospital that also operates as a Level II or Level III perinatal center;
 - ii) Provide services to pregnant women demonstrating the need for extensive health care services due to complicated medical conditions placing them potentially at high risk of abnormal delivery, including substance abuse or addiction problems. Hospital clinics will not qualify to participate

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unless they provide both primary and specialty services to women who currently are Medicaid clients, or Medicaid-eligible women who receive services at the COBACC; in this capacity, COBACCs, as perinatal centers, shall serve pregnant women determined to be at high risk of abnormal delivery;

- iii) Operate a designated 24-hour per day emergency referral site with a defined practice for the care of obstetric emergencies;
- iv) Have an established program of services for the treatment of substance-abusing pregnant women;
- v) Integrate an accredited obstetrical residency program with subspecialty residency programs to encourage future physicians to devote part of their professional services to disadvantaged and underserved high-risk pregnant women; and
- vi) Operate organized ambulatory clinics for pregnant women that are easily accessible to the medically underserved.

c) Clinics described in subsection (f)(1)(D) above must:

- i) Provide primary and specialty services for children demonstrating the need for extensive health care services due to a chronic condition as described in Section 140.462(e)(3)(C);
- ii) Operate a designated 24-hour per day emergency referral site with a defined practice for the care of pediatric emergencies;
- iii) Provide access to necessary pediatric primary and specialty services within 24 hours after referral;
- iv) Be a distinct department of a disproportionate share hospital, as described in 89 Ill. Adm. Code 148.120(a)(5);
- v) Integrate an accredited pediatric or family practice residency program with subspecialty residency programs to encourage future physicians to devote part of their professional services to disadvantaged and underserved children with specialty needs; and
- vi) Operate organized ambulatory clinics for children that are easily accessible to the medically underserved.

4) Data Requirements

The Maternal and Child Health clinics described in subsection (f)(1) above shall be required to submit patient level historical data to the Department, which may include, but shall not be limited to historical data on the use of the hospital emergency room department.

5) Certification Requirements

Certification of qualifying status of a Maternal and Child Health clinic identified in subsection (f)(1) above shall occur annually

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during the first two years of participation and every other year thereafter. In addition:

- A) The certification process shall consist of a review of the completed application and related materials to determine provisional certification status. Those centers submitting approved applications shall then be reviewed on-site by Department staff within 60 days after application approval. Final notification of certification status shall be rendered within 30 days after the site review, pending provider submittal of a written plan of correction for any deficiencies discovered during the entire application process.

- B) Entities interested in becoming a Maternal and Child Health clinic must direct a written request for an application packet to the following address:
Maternal and Child Health Clinic
Certification
Bureau of Comprehensive Health Services
Illinois Department of Public Aid
201 South Grand Avenue East, Concourse
Springfield, Illinois 62763-0001

- C) Child Health clinics shall be suspended for Maternal and Child Health clinics identified in subsection (f)(1) above that do not submit data to the Department, as required under subsection (f)(4) above, within 180 days after the Department's request for the submittal of such data.

- g) School Based/Linked Health Clinics (centers) must be certified by the Department of Human Services (DHS) that they are meeting the minimum standards established by DHS (77 Ill. Adm. Code 2200).
 - 1) School based health centers must be located in schools or on school grounds, serving at least the students attending that school.
 - 2) School linked health centers are located off school grounds, but a formal relationship must exist to serve students attending a particular school or multiple schools within the district.
 - 3) All medical services performed by mid-level practitioners (i.e., medical services providers who are not physicians), such as nurse practitioners (see Section 140.400), must be under the direction of a physician.
 - 4) The center must have a medical director. The medical director of the center must be a qualified physician, licensed in Illinois to practice medicine in all its branches. Each center's medical director must develop standing orders and protocols for services provided at the center. The medical director shall ensure compliance with the policies and procedures pertaining to medical procedures and health care services. The medical director shall supervise the medical protocols involving direct care of students. The center must have consultant or back-up physicians

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with hospital admitting privileges. The consultant provider of the clinic for obstetrical care, as appropriate, must have delivery privileges. All medical services must be delivered in accordance with the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, the American Academy of Family Practice Guidelines, and the standards established by outside regulatory agencies.

5) All laboratory services must be in compliance with the Clinical Laboratory Improvement Amendments (CLIA) of 1988 (42 USC 263a). DHS will provide ongoing monitoring to assure that appropriate standards are followed.

6) The center shall be staffed by Illinois licensed, registered, and/or certified health professionals who are trained and experienced in community and school health, and who have knowledge of health promotion and illness prevention strategies for children and adolescents. The center must ensure that staff are assigned responsibilities consistent with their education and experience, supervised, evaluated annually and trained in the policies and procedures of the center.

7) The center must establish procedures for the availability of primary care providers and for 24-hour per day, 12-month per year access to routine, urgent and emergency care, telephone appointments and advice. The center must have in place telephone answering methods that notify students and parents/guardians where and how to access 24-hour back-up services when the center is not open.

8) Services may be provided to eligible students who have obtained written parental consent, or who are 18 years of age, and/or who are otherwise able to give their own consent.

9) The center must coordinate care and the exchange of information necessary for the provision of health care of the student, between the center and a student's primary care practitioner, medical specialist or managed care entity. Written policies must address obtaining student and/or parental consent to share information regarding a student's health care.

10) The center must operate in accordance with a systematic process for referring students to community-based health care providers when the center is not able to provide the services required by the student. The center may provide medical care to a Managed Care Entity (MCE) enrolled student. The center shall refer that MCE enrolled student to the MCE primary care provider for continuing and definitive care.

A) The center shall refer a student who requires specialty medical and/or surgical services to his or her primary care provider or MCE to obtain a referral for a specialist.

B) The center shall document in the student's record that the referral was made, and document follow-up on the outcome of the referral when relevant to the health care provided by

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the center.

11) The center must develop a collaborative relationship with other health care providers, insurers, managed care organizations, the school health program, students and parents or guardians with the goal of assuring continuity of care, pertinent medical record sharing and reducing duplication and fragmentation of services.

12) Data Requirements
The center shall maintain a health record system that provides for consistency, confidentiality, storage and security of records for documenting significant student health information and the delivery of health care services.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 140.462 Covered Services in Clinics

Payment shall be made to clinics for the following types of services when provided by, or under the direction of, a physician:

- a) Hospital-based organized clinics
 - 1) With respect to those hospital-based organized clinics that qualify as Maternal and Child Health clinics, as described in Section 140.461(f)(1), covered services are those described in subsection (a) below, as appropriate.
 - 2) With respect to all other hospital-based organized clinics, covered services are those described in 89 Ill. Adm. Code 148.
- b) Encounter rate clinics
 - 1) With respect to those encounter rate clinics that qualify as Maternal and Child Health providers, as described in Section 140.924(a)(2)(B), covered services are those described in Section 140.922.
 - 2) With respect to all other encounter rate clinics, covered services are medical services which provide for the continuous health care needs of persons who elect to use this type of service.
- c) Rural health clinics
 - 1) Physician's services, including covered services of nurse practitioners, nurse midwives and physician-supervised physician assistants.
 - 2) Medically-necessary services and supplies furnished as an incident to a physician's professional services.
- d) Federally Qualified Health Centers

Covered services are the following services, when delivered in a clinic setting as described in 42 CFR 440.90 (1989):

 - 1) Physician's services, including covered services of nurse midwives, nurse practitioners and physician-supervised physician assistants; and
 - 2) Medically-necessary services and supplies furnished by or under

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the direction of a physician or dentist within the scope of licensed practice, including:

- A) medical case management;
- B) laboratory services;
- C) occupational therapy;
- D) patient transportation;
- E) pharmacy services;
- F) physical therapy;
- G) podiatric services for persons under 21 years of age;
- H) psychological services;
- I) services required to be provided by Section 329.330 or 340 of the Public Health Service Act;
- J) speech and hearing services;
- K) x-ray services;
- L) health education;
- M) dental services for persons under 21 years of age; and
- N) nutrition services.

e) Maternal and Child Health Clinics

Payment shall be made to the Maternal and Child Health Clinics identified in Section 140.461(f)(1) for the following services when provided by, or under the direction of, a physician:

- 1) In the case of clinics described in Sections 140.461(f)(1)(A) and 140.461(f)(1)(B), primary care services delivered by the clinic, which must include, but are not necessarily limited to:

- A) Early, periodic, screening, diagnostic, and treatment (EPSDT) services as defined in Section 140.485;
- B) Childhood risk assessments to determine potential need for mental health and substance abuse assessment and/or treatment;

- C) Regular immunizations for the prevention of childhood diseases;

- D) Follow-up ambulatory medical care deemed necessary, recommended, or prescribed by a physician as a result of an EPSDT screening;

- E) Routine prenatal care, including risk assessment, for pregnant women; and

- F) Specialty care as medically needed.

- 2) In the case of clinics described in Section 140.461(f)(1)(C), primary care and specialty services delivered by the clinic, which must include, but are not necessarily limited to:

- A) Prenatal care, including risk assessment (one risk assessment per pregnancy);
- B) All ambulatory treatment services deemed medically necessary, recommended or prescribed by a physician as the result of the assessment; and
- C) Services to pregnant women with diagnosed substance abuse or addiction problems.

- 3) In the case of clinics described in Section 140.461(f)(1)(D):

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- A) Comprehensive medical and referral services.
- B) Primary care services, which must include, but are not necessarily limited to:

- i) early, periodic, screening, diagnostic, and treatment (EPSDT) services as defined in Section 140.485;
- ii) regular immunizations for the prevention of childhood diseases; and
- iii) follow-up ambulatory medical care deemed necessary, recommended, or prescribed by a physician as the result of an EPSDT screening.

- C) Pediatric specialty services, which must include, at a minimum, necessary treatment for:

- i) asthma;
- ii) congenital heart disease;
- iii) diabetes; and
- iv) sickle cell anemia.

- D) Ambulatory treatment for other medical conditions as specified in the center's certificate application and as approved by the Department.

F) School Based/Linked Health Clinics (Centers)

Covered services are the following services, when delivered in a school based/linked health center setting as described in Section 140.461(g)(1):

- 1) Basic medical services: well child or adolescent exams, consisting of a comprehensive health history, complete physical assessment, screening procedures and age appropriate anticipatory guidance; immunizations; EPSDT services; diagnosis and treatment of acute illness and injury; basic laboratory tests; prescriptions and dispensing of commonly used medications for identified health conditions, in accordance with Medical Practice and Pharmacy Practice Acts; and acute management and on-going monitoring of chronic conditions, such as asthma, diabetes and seizure disorders.

- 2) Reproductive health services: gynecological exams; diagnosis and treatment of sexually transmitted diseases; family planning; prescribing and dispensing of birth control or referral for birth control services; pregnancy testing; treatment or referral for prenatal and postpartum care; and cancer screening.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT(S)

- 1) Heading of the Part: Determination Of Unemployment Contributions
- 2) Code Citation: 56 Ill. Adm. Code 2770
- 3) Section Number: Adopted Action:
2770.110 Amended Section
- 4) Statutory Authority: 820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701.
- 5) Effective Date of the Amendment: January 1, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this Rule contain an incorporation by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: October 2, 1998 at 20 Ill. Reg. 17180.
- 10) Has JCAR issued a Statement of Objection to these Rules? No
- 11) Difference between proposal and final version: No changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of the rules: The proposed amendment to Part 2770 announces the 1999 contribution rates for newly liable employers by classification within their Standard Industrial Code. In keeping with our commitment to the Joint Committee on Administrative Rules, we are also repealing the obsolete subsection with the rates for 1993 as it is no longer needed.
- 16) Information and Questions regarding these Adopted Amendments may be addressed to:
Gregory J. Rameil, Deputy Legal Counsel
Illinois Department of Employment Security
401 South State Street - 7 South
Chicago, Illinois 60605

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT(S)

312/793-4240

The full text of the Adopted Amendment(s) begin on the next page:

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER C: RIGHTS AND DUTIES OF EMPLOYERS

PART 2770

DETERMINATION OF UNEMPLOYMENT CONTRIBUTIONS

SUBPART B: STANDARD INDUSTRIAL CLASSIFICATION

Section
2770.100 Industrial Classification
2770.105 Contribution Rate For Non Experience-Rated Employers
2770.110 Average Contribution Rates By Standard Industrial Classification (SIC) Codes

SUBPART C: ALTERNATIVE BENEFIT WAGE RATIO (Repealed)

Section
2770.150 Eligibility To Elect The Alternative Benefit Wage Ratio (Repealed)
2770.155 Approval Of Election Of The Alternative Benefit Wage Ratio (Repealed)
2770.160 Adjustment Of Benefit Wage Charges And The Determination Of The Alternative Benefit Wage Ratio (Repealed)
2770.165 Revocation Of Election Of Alternative Benefit Wage Ratio (Repealed)
2770.170 Appeals (Repealed)

SUBPART E: TRANSFER OF BENEFIT WAGES FROM BASE PERIOD TO SUBSEQUENT EMPLOYER (Repealed)

Section
2770.400 Definitions (Repealed)
2770.405 Application of Base Period Wages (Repealed)
2770.410 Restriction On Benefit Wage Transfers (Repealed)
2770.415 Benefit Wage Transfer Procedural Requirements (Repealed)
2770.420 Petition For Hearing (Repealed)

SUBPART F: BENEFIT WAGE CANCELLATIONS

Section
2770.501 Effective Date Of Benefit Wage Cancellations Pursuant To Section 1508.1 Of The Act

TABLE A General SIC Classifications

AUTHORITY: Implementing and authorized by Sections 1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700, and 1701 of the Unemployment Insurance Act (820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701 (1996, State Bar Edition)).

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT(S)

SOURCE: Emergency rules adopted as 56 Ill. Adm. Code 600: Subpart C at 8 Ill. Reg. 550, effective January 1, 1984, for a maximum of 150 days; adopted at 8 Ill. Reg. 8206, effective May 30, 1984; recodified from 56 Ill. Adm. Code 600: Subpart C at 8 Ill. Reg. 15030; emergency amendments at 8 Ill. Reg. 11088, effective August 8, 1984, for a maximum of 150 days; emergency amendments at 8 Ill. Reg. 22139, effective October 26, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 24117, effective November 30, 1984; amended at 9 Ill. Reg. 4507, effective March 25, 1985; amended at 10 Ill. Reg. 6935, effective April 14, 1986; amended at 10 Ill. Reg. 21683, effective December 15, 1986; amended at 11 Ill. Reg. 9878, effective May 11, 1987; emergency amendments at 12 Ill. Reg. 210, effective January 1, 1988, for a maximum of 150 days, expired May 30, 1988; amended at 12 Ill. Reg. 11213, effective June 20, 1988; amended at 12 Ill. Reg. 12473, effective July 15, 1988; amended at 12 Ill. Reg. 18143, effective October 27, 1988; amended at 12 Ill. Reg. 20477, effective November 28, 1988; amended at 13 Ill. Reg. 11507, effective June 29, 1989; amended at 14 Ill. Reg. 2038, effective January 19, 1990; amended at 14 Ill. Reg. 18280, effective October 30, 1990; amended at 15 Ill. Reg. 172, effective December 28, 1990; amended at 15 Ill. Reg. 8553, effective May 24, 1991; amended at 16 Ill. Reg. 118, effective December 20, 1991; amended at 17 Ill. Reg. 295, effective December 28, 1992; amended at 18 Ill. Reg. 250, effective January 1, 1994; amended at 18 Ill. Reg. 17473, effective January 1, 1995; amended at 20 Ill. Reg. 350, effective January 1, 1996; amended at 21 Ill. Reg. 561, effective January 1, 1997; amended at 21 Ill. Reg. 15496, effective January 1, 1998; amended at 23 Ill. Reg. 155, effective January 1, 1999.

SUBPART B: STANDARD INDUSTRIAL CLASSIFICATION

Section	2770.110	Average	Contribution	Rates	By	Standard	Industrial
Classification	(SIC)	Codes					

a) The average contribution rate for each Economic Division, excluding the fund-building rate as set forth in Section 1506.3 of the Act, for each calendar year 1993, as determined by the application of Section 2770.185(a)(4) of this Part, shall be:

Bits	Economic Division	Rate
61-69	A--Agriculture, Forestry, Fishing	3-8%
10-14	B--Mining	3-6%
15-17	C--Construction	3-4%
28-39	B--Manufacturing	2-4%
40-49	E--Transportation, Communication, Electricity, Gas	2-2%
50-51	F--Sanitary Services	1-6%
52-59	G--Wholesale Trade	1-4%
60-67	H--Retail Trade	1-4%
	H--Finance, Insurance, Real Estate	1-2%

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NOTICE OF ADOPTED AMENDMENT(S)

Digits	Estate
70-89	I. Services
91-97	J. Public Administration
99	K. Nonclassifiable Establishments

b) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1994, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.5%
10-14	B. Mining	4.1%
15-17	C. Construction	4.4%
20-39	D. Manufacturing	2.7%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	2.6%
50-51	F. Wholesale Trade	2.0%
52-59	G. Retail Trade	1.6%
60-67	H. Finance, Insurance, Real Estate	1.4%
70-89	I. Services	1.5%
91-97	J. Public Administration	1.6%
99	K. Nonclassifiable Establishments	1.9%

b1) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1995, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	4.0%
10-14	B. Mining	4.5%
15-17	C. Construction	5.0%
20-39	D. Manufacturing	3.2%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	3.0%
50-51	F. Wholesale Trade	2.4%
52-59	G. Retail Trade	1.9%
60-67	H. Finance, Insurance, Real Estate	1.7%

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT(S)

Digits	Economic Division
70-89	I. Services
91-97	J. Public Administration
99	K. Nonclassifiable Establishments

c) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1996, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.9%
10-14	B. Mining	4.3%
15-17	C. Construction	4.7%
20-39	D. Manufacturing	2.8%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	2.7%
50-51	F. Wholesale Trade	2.2%
52-59	G. Retail Trade	1.7%
60-67	H. Finance, Insurance, Real Estate	1.5%
70-89	I. Services	1.7%
91-97	J. Public Administration	1.6%
99	K. Nonclassifiable Establishments	2.4%

d) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1997, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.2%
10-14	B. Mining	3.6%
15-17	C. Construction	3.8%
20-39	D. Manufacturing	1.9%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.9%
50-51	F. Wholesale Trade	1.5%
52-59	G. Retail Trade	1.2%
60-67	H. Finance, Insurance, Real Estate	1.2%

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70-89

I. Services

1.2%

91-97

J. Public Administration

1.1%

e)f. The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1998, as determined by the application of Section 2770.105(a)(4) of this Pat, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.1%
10-14	B. Mining	3.4%
15-17	C. Construction	3.5%
20-39	D. Manufacturing	1.9%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.9%
50-51	F. Wholesale Trade	1.5%
52-59	G. Retail Trade	1.2%
60-67	H. Finance, Insurance, Real Estate	1.2%
70-89	I. Services	1.2%
91-97	J. Public Administration	1.1%

f) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1999, as determined by the application of Section 2770.105(a)(4) of this Pat, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.0%
10-14	B. Mining	3.2%
15-17	C. Construction	3.3%
20-39	D. Manufacturing	1.8%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.8%
50-51	F. Wholesale Trade	1.4%
52-59	G. Retail Trade	1.1%
60-67	H. Finance, Insurance, Real Estate	1.1%
70-89	I. Services	1.1%
91-97	J. Public Administration	1.0%

(Source: Amended at 23 Ill. Reg. **155**, Effective January 1, 1999)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Boiler and Pressure Vessel Safety Rules and Regulations.

2) Code Citation: 41 Ill. Adm. Code 120

3) Section Numbers: Adopted Action:

120.10	Amendment
120.15	New Section
120.20	Amendment
120.1000	Amendment
120.1010	Amendment
120.1030	Amendment
120.1041	Amendment

4) Statutory Authority: 430 ILCS 75/2 and 2.1

5) Effective Date of Amendments: January 1, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal published in the Illinois Register: 22 Ill. Reg. 6786, April 17, 1998.

10) Has JCAR issued a statement of Objection to these rules? No

11) Differences between proposal and final version: A number of stylistic changes were made in response to the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this Amendment replace an Emergency Amendment currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and purpose of Amendment: The standards incorporated in the rules are updated. The updated incorporation's are designed to keep Illinois consistent with national standards and industry practices. The rules have been reorganized and incorporate changes made to the enabling legislation including a newly enacted requirement that persons performing welded

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repairs must be licensed to perform those repairs.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Mr. David Douin
Superintendent of Boiler and Pressure Vessel Safety
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield, Illinois 62703-4259
217/782-2696

The full text of the Adopted Amendment begins on the next page:

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

TITLE 41: FIRE PROTECTION
CHAPTER I: STATE FIRE MARSHAL

PART 120

BOILER AND PRESSURE VESSEL
SAFETY

SUBPART A: DEFINITIONS AND ADMINISTRATION

Section	
120.4	Forward (Repealed)
120.7	Kindly Observe the Following Briefs and Avoid Unnecessary Inconvenience (Repealed)
120.10	Definitions
120.11	Incorporation of National Standards
120.15	Fees
120.20	Administration
120.30	Inspectors, Examinations, Certificate of Competency and Commission
120.41	Special Inspector Trainee (Repealed)

SUBPART B: CONSTRUCTION, INSTALLATION, INSPECTION, MAINTENANCE, AND USE

Section	
120.100	New Installations of Boilers, Miniature Boilers, Heating Boilers and Boiler Exemptions
120.105	Hot Water Supply Boilers
120.200	New Installations of Pressure Vessels
120.205	Pressure Vessel Exemptions
120.300	Existing Installations of Power Boilers
120.400	Existing Installations of Miniature Boilers (Repealed)
120.500	Operation of Boilers and Pressure Vessels Existing Installations-of Heating-Boilers-and-Hot-Water-Supply-Boilers-(Repealed)
120.600	Existing Installation of Pressure Vessels
120.700	General Requirements for all Boilers and Pressure Vessels (Repealed)
120.800	Nuclear Power Plant Components (Repealed)
120.900	Flame Safeguard Requirements and Incorporated Standards (Repealed)

SUBPART C: REPAIR AND ALTERATION

Section	
120.1000	Repairs and Alterations to Boilers and Pressure Vessels by Welding
120.1010	Authorization to Repair Boilers and Pressure Vessels
120.1020	Issuance and Renewal of the Certificate
120.1030	Changes to Certificates of Authorization
120.1040	Quality Control Requirements
120.1041	Repair and Alteration Requirements

SUBPART D: STATE SPECIALS

OFFICE OF THE STATE FIRE MARSHAL
NOTICE OF ADOPTED AMENDMENTSSection
120.1100

Procedure for the Issuance of a State's Special Permit Permits

SUBPART E: REPAIR OF SAFETY AND SAFETY RELIEF VALVES

Section
120.1200

Authorization for Repair of Safety & Safety Relief Valves
Authorization to Repair ASME and National Board Stamped Safety and Safety Relief Valves

Issuance and Renewal of the Certificate

Changes to Certificates of Authorization

Repairs to Safety and Safety Relief Valves

Quality Control System

120.1260

120.1270

120.1275

120.1280

120.1285

120.1290

ASME "V", "UV" or National Board "VQ" Certificate Holders

SUBPART F: OWNER-USER QUALITY CONTROL REQUIREMENTS

Section
120.1300

120.1300

120.1301

120.1305

120.1310

120.1320

120.1325

120.1330

120.1335

120.1340

120.1345

120.1350

120.1355

120.1360

Inspectors

APPENDIX A Operational and Maintenance Log Examples--of--Repairs--and Alterations--Repeated;

EXHIBIT A Hot Water Heating Boilers

EXHIBIT B Steam Heating Boilers

APPENDIX B Record of Welded Repair (Repealed)

AUTHORITY: Implementing the Boiler and Pressure Vessel Safety Act [430 ILCS 75] and authorized by Sections 2 and 2.1 of the Boiler and Pressure Vessel Safety Act [430 ILCS 75/2 and 2.1].

SOURCE: Boiler and Pressure Vessel Safety Act Rules and Regulations adopted at 4 Ill. Reg. 7, p. 126, effective January 31, 1980; codified at 5 Ill. Reg.

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10677; amended at 7 Ill. Reg. 6225, effective July 1, 1983; amended at 10 Ill. Reg. 9510, effective July 1, 1985; amended at 11 Ill. Reg. 16367, effective January 1, 1988; amended at 16 Ill. Reg. 6808, effective July 1, 1993; amended at 17 Ill. Reg. 14917, effective September 1, 1993; amended at 19 Ill. Reg. 11904, effective August 15, 1995; amended at 20 Ill. Reg. 9540, effective July 3, 1996; amended at 21 Ill. Reg. 997, effective January 1, 1997; amended at 23 Ill. Reg. 1002, effective JAN 01 1999.

SUBPART A: DEFINITIONS AND ADMINISTRATION

Section 120.10 Definitions

Act or the Act means the Boiler and Pressure Vessel Safety Act [430 ILCS 75].

Alteration means any change in the item described on the original Manufacturers' Data Report which affects the pressure containing capability of the boiler or pressure vessel. Non-physical changes such as an increase in the maximum allowable working pressure (internal or external) or design temperature of a boiler or pressure vessel shall be considered an alteration. A reduction in minimum temperature such that additional mechanical tests are required shall also be considered an alteration.

API 510 means the Maintenance, Inspection, Rating, Repair and Alteration of Pressure Vessels as published by the American Petroleum Institute.

Approved means approved by the Board of Boiler and Pressure Vessel Rules.

ASME Code means the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers with such revisions, amendments and interpretations thereof as are made, approved and adopted by the Council of the Society and approved and adopted by the Board. Copies of the Code may be obtained from said Society at 345 E. 47th Street, New York, New York 10017.

Authorized Inspection Agency means one of the following:

A department or division established by a jurisdiction which has adopted one or more Sections of the ASME Code and whose inspectors hold valid commissions issued by the National Board of Boiler and Pressure Vessel Inspectors;

An inspection agency of an insurance company which is authorized (licensed) to insure and is insuring boilers and pressure vessels in those jurisdictions which have examined the agency's

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inspectors to represent such jurisdictions as is evident by the issuance of a valid Certificate of Competency to the inspector; or

An owner or user of boilers and pressure vessels who maintains a regularly established inspection department, whose organization and inspection procedures meet the requirements established by the Board and contained in this Part.

Authorized Repairer means a holder of a Certificate of Registration issued pursuant to the Boiler and Pressure Vessel Repair Regulation Act.

Board means the Board of Boiler and Pressure Vessel Rules created by the Act and empowered to make, alter, amend and interpret rules and regulations for the safe construction, installation, inspection, alteration, and repair of boilers and pressure vessels and for establishing fees.

Boiler means a vessel intended for use in heating water or other liquids or for generating steam or other vapors under pressure or vacuum by the application of heat resulting from the combustion of fuels, electricity, or waste gases.

Certificate Inspection means an inspection, the report of which is used by the Chief Inspector as justification for issuing, withholding or revoking the inspection certificate. The Certificate Inspection shall be an internal inspection when required; otherwise, it shall be as complete an inspection as possible.

Certificate of Competency means a certificate issued to a person who has passed the examination prescribed by the Board.

Certificate of Registration means a certificate issued by the Office pursuant to the Boiler and Pressure Vessel Repair Regulation Act.

Commission, National Board means the commission issued by the National Board to a holder of a Certificate of Competency who desires to make shop inspections or field inspections in accordance with the National Board bylaws and whose employer submits the inspector's application to the National Board for such commission.

Condemned Boiler or Pressure Vessel means a boiler or pressure vessel that has been inspected and declared unsafe, or disqualified by legal requirements, by the Chief or Deputy Inspector.

Division means the Division of Boiler & Pressure Vessel Safety.

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Electric Boiler means a boiler in which the source of heat is electricity.

Engineer means a registered professional engineer registered in accordance with the Illinois Professional Engineering Act [225 ILCS 325] or a person who graduated from an accredited college or university and either:

holds a mechanical engineering degree, or

has five years experience in a related field (e.g., civil engineering, metallurgical engineering, industrial engineering, design engineering, maintenance engineering, project engineering or construction, maintenance, repair or operation of high pressure boilers and pressure vessels).

Existing Installation means and includes:

Any boiler installed and placed in operation within the State of Illinois before May 1, 1953.

Any hot water supply boiler installed and placed in operation within the State of Illinois on or before July 9, 1957.

Any pressure vessel installed and placed in operation within the State of Illinois on or before December 31, 1976.

External Inspection means an inspection made when a boiler or pressure vessel is in operation, if possible.

Heating Boiler means a steam boiler operated at pressures not exceeding 15 psig, or a hot water heating boiler operated at pressures not exceeding 160 psig and/or temperatures not exceeding 250° F. at or near the boiler outlet.

High Pressure Boiler means a boiler where steam is generated at a pressure in excess of 15 psig or a water boiler operated in excess of 160 psig and/or temperatures in excess of 250° F.

High-Temperature Water Boiler means a water boiler operating at pressures exceeding 160 psig and/or temperatures exceeding 250° F. at or near the boiler outlet.

Hot water supply boiler means a boiler (including fired storage water heater) furnishing hot water to be used externally to itself at pressures not exceeding 160 psig and/or temperatures not exceeding 250° F. at or near the boiler outlet except those exempted pursuant to the Boiler and Pressure Vessel Safety Act and this Part.

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Inspection Certificate means a certification issued by the Chief Inspector for the operation of a boiler or pressure vessel as required by the Act.

Inspector means the Chief Inspector or Deputy Inspector or Special Inspector or Owner-User Inspector.

Chief Inspector means the Chief Boiler and Pressure Vessel Inspector employed under the Act.

Deputy Inspector means any inspector employed under the provisions of the Act.

Special Inspector means an inspector holding an Illinois Certificate of Competency and who is regularly employed by an insurance company authorized to write boiler and pressure vessel insurance in this State.

Special Inspector Trainees are those inspectors described in Section 120.30.

Owner-User Inspector means an inspector described in Section 120.1360 continuously employed as an inspector by an Owner-User Inspection Agency.

Internal Inspection means as complete an examination as can reasonably be made of the internal and external surfaces of a boiler or pressure vessel while it is shut down and manhole plates, handhole plates or other inspection opening closures are removed as required by the inspector.

Jurisdiction means a state, commonwealth, county or municipality of the United States or a province of Canada which has adopted one or more sections of the ASME Code and maintains a duly constituted Department, Bureau, or Division for the purpose of enforcement of such Code. In Illinois the Division of Boiler and Pressure Vessel Safety is the jurisdiction except for the City of Chicago.

Lined Potable Water Heater shall mean a water heater with a corrosion resistant lining, used to supply potable hot water.

Low Pressure Boiler means a steam boiler operated at pressures exceeding 15 psig or a hot water boiler operated at pressures not exceeding 160 psig and/or temperatures not exceeding 250° F.

Miniature Boiler means any boiler which does not exceed any of the following limits:

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16 inches inside diameter of shell

20 square feet heating surface

5 cubic feet gross volume, exclusive of casing and insulation

100 psig maximum allowable working pressure

National Board Inspection Code means the Manual for Boiler and Pressure Vessel Inspectors published by the National Board. Copies of the Code may be obtained from the National Board.

National Board means the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the Chief Inspectors of jurisdictions who are charged with the enforcement of the provisions of the ASME Code.

New Boiler Installations means and includes all boilers constructed, installed and placed in operation within the State of Illinois after May 1, 1953, and all hot water supply boilers installed and placed in operation after July 9, 1957.

New Pressure Vessel Installations means and includes any pressure vessel installed and placed in operation within the State of Illinois after December 31, 1976.

Non-Standard Boiler or Pressure Vessel means a boiler or pressure vessel that does not bear the ASME Stamp or the API-ASME Stamp.

Office means the Office of the State Fire Marshal.

Operator means any individual who has charge of a boiler or pressure vessel as defined by the Act, and whose duties include operation and maintenance of such devices.

Owner or User means any person, firm or corporation legally responsible for the safe operation of any boiler or pressure vessel within the State.

Owner-User means an owner and user qualified under Section 15 of the Act.

Place of Public Assembly means a building or specific area, including outdoor areas, in which persons assemble for civic, educational, religious, social or recreational purposes or which is provided by a common carrier for passengers awaiting transportation or in which persons are housed to receive medical, charitable or other care or treatment, or are held or detained for public, civic or correctional

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purposes.

Portable Boiler means an internally fired boiler which is primarily intended for temporary location and the construction and usage of which permits it to be readily moved from one location to another.

Power Boiler means a boiler in which steam or other vapor is generated at a pressure of more than 15 psig and includes a high-pressure, high-temperature water boiler.

Pressure Vessel means a vessel in which pressure is obtained from an external source, or by the application of heat from an indirect source or from a direct source other than those boilers as defined above.

PSIG means pounds per square inch gauge.

Reinstalled Boiler or Pressure Vessel means a boiler or pressure vessel removed from its original setting and reinstalled at the same location within the State of Illinois or at a new location without change of ownership.

Relief Valve means an automatic pressure relieving device actuated by the static pressure upstream of the valve which opens further with the increase in pressure over the opening pressure. It is used primarily for liquid service.

Repair means work necessary to return a boiler or pressure vessel to a safe operating condition.

Rating means a change in the maximum allowable working pressure or temperature of a boiler or pressure vessel regardless of whether or not physical work is performed on the boiler or pressure vessel. Rating shall be considered an alteration.

Safety Relief Valve means an automatic pressure actuated relieving device suitable for use as a safety or relief valve, depending on application.

Safety Valve means an automatic pressure relieving device actuated by the static pressure upstream of the valve and characterized by full opening pop action. It is used for gas or vapor service.

Secondhand Boiler or Pressure Vessel means a boiler or pressure vessel which has changed both location and ownership since primary use.

Standard Boiler or Pressure Vessel means a boiler or pressure vessel which bears the ASME Code Symbol.

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State Special means a pressure vessel of special construction that may not be constructed in accordance with the ASME Code. See Subpart E, Section 120.1100 of this Part, for the procedures for granting a State Special.

Underwriters Laboratories (U.L.) means a non-profit independent organization testing for public safety. It maintains and operates laboratories for the examination and testing of devices, systems and materials to determine their relationship to life, fire and casualty hazards.

Welding or Arc Welding means a group of welding processes wherein coalescence is produced by heating with an arc or arcs, with or without the application of pressure, and with or without the use of filler metal.

(Source: Amended at 23 Ill. Reg. 162.0.1, effective JAN-01-1999)

Section 120.11 Incorporation of National Standards

Where standards are incorporated by reference in this Part, the incorporated material does not include any later editions or amendments.

a) The Board hereby adopts the following nationally recognized standards and addenda:

ASME CSD-1a-1993	Controls and Safety Devices for Automatically Fired Boilers
NFPA 8501-92	Single Burner Boilers - Furnaces
NFPA 85-C 1991	Multiple Burner Boilers - Furnaces
NFPA 85-F 1988	Pulverized Fuel Systems
ASME Boiler and Pressure Vessel Code (1995) with 1995, 1996, 1997 (1997) with 1992-1993-1994 addenda	
Section I	
Power Boilers	
Section II	Material Specifications -- Part A -- Ferrous
Section II	Material Specifications -- Part B -- Nonferrous
Section II	Material Specifications -- Part C -- Welding Rods
Section II	Electrodes and Fillers Metals
Section II	Material Specifications -- Part D -- Properties
Section IV	Heating Boilers
Section V	Nondestructive Examination

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Section VI

Recommended Rules for Care and Operation of Heating Boilers

Section VII

Recommended Rules for Care of Power Boilers

Section VIII

Pressure Vessels -- Division 1
Including Appendix M

Section VIII

Pressure Vessels -- Division 2 -- Alternative Rules

Section VIII

Pressure Vessels -- Division 3 -- Alternative Rules
for High Pressure Vessels

Section IX

Welding and Brazing Qualifications

Section X

Fiberglass -- Reinforced Plastic Pressure Vessels
National Board of Boiler & Pressure Vessel Inspectors
Inspection Code (1995) with 1995, 1996 and 1997 (1992) -- with
1992-1993-1994 addendaNational Board Rules and Recommendations for the Design and
Construction of Boiler Blowoff Systems (1991)

American Petroleum Institute

API-510, Seventh Edition, 2nd Supplement, "API Recommended
Practice for Inspection, Repair, and Rating of Pressure
Vessels in Petroleum Refining Service"

API --

American Petroleum Institute
1220 L Street, Northwest
Washington, D.C. 20005

ASME --

American Society of
Mechanical Engineers
United Engineering Center
345 East 47th Street
New York, New York 10017

NB --

National Board of Boiler &
Pressure Vessel Inspectors
1055 Crupper Avenue
Columbus, Ohio 43229

NFPA --

National Fire Protection
Association
1 Batterymarch Park
Quincy, Massachusetts 02269-9101

162

Quincy, Massachusetts 02269-9101

effective

Ill. Reg.

23

JAN 01 1999

Administration

Section 120.20

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Administration (generally):

- a) Applying State Serial Number. The State serial number on boilers shall be not less than 5/16" in height and shall be preceded by the letters "ILL" which shall also be not less than 5/16" in height. Boilers will be identified by a five digit number. The State serial number on pressure vessels shall be not less than 5/16" in height and shall be preceded by the letters "ILL" and the letter "v" which also shall be not less than 5/16" in height. Pressure vessels will be identified by a six digit number. The Inspector shall make certain that the correct Illinois State serial number is affixed to the boiler or pressure vessel at the time of inspection.
- b) First Time Inspection. Effective January 1, 1999, all first time inspections of boilers and pressure vessels shall be performed by the Chief or a Deputy Inspector employed by the Division. Attendants--of Boilers--in-the-interest-of-safety-it-is-recommended-that-boilers-in-operation-shall-be-under-the-supervision-of-and-checked-at-suitable-intervals-by-a-competent-attendant.
- c) Basis for Extending Certificate.
 - 1) The Chief Inspector is authorized to extend, for a period not exceeding one year, the time within which power boilers are required to be internally inspected, subject to the following conditions and qualifications:
 - A) The analysis and treatment of feedwater for such power boilers shall be under the supervision of a person qualified in the field of water chemistry.
 - B) The analysis and treatment of the boiler feedwater shall be for the purpose of controlling and limiting serious deteriorating, encrusting and sludging factors affecting the safety of the boiler.
 - 2) The owner or user of such power boilers must maintain, for examination by the inspector, accurate records of such chemical and physical laboratory analysis of samples of the boiler water taken at regular intervals of not more than 24 hours operation and of the treatment applied. These records must specify dates and times of analyses, by whom analyzed, and the treatment applied at that time, and should be certified by the responsible authority. These records will adequately show the conditions of such water and any constituents or characteristics which are capable of producing corrosion or other deterioration of the boiler or its parts.
 - 3) The Chief Inspector is authorized to review the qualifications of the supervisor and the acceptability of supervision in accordance with the foregoing.
 - 4) Application for extension shall be by letter setting forth facts establishing compliance with the foregoing conditions and qualifications, and shall be accompanied by the report of external inspection.

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- d) Unsafe Boilers or Pressure Vessels. Any boiler or pressure vessel having been inspected and declared unsafe by an inspector shall have the inspection Certificate suspended.
- e) Factors of Safety for Existing Installations. An inspector shall increase the factors of safety if the condition of a boiler or pressure vessel warrants it. If the owner or user does not concur with the inspector's decision, the owner or user may appeal to the Board.
- f) Frequency of Inspection of Boilers and Pressure Vessels.

- 1) Power boilers and high temperature water boilers shall receive a certificate inspection annually, which shall be an internal inspection where conditions permit. Such boilers shall also be inspected externally annually while under representative operating conditions, if possible.
- 2) Low pressure steam and hot water heating boilers and hot water supply boilers shall be inspected both internally and externally every two years where conditions permit and shall receive a certificate inspection every two years.
- 3) Inspection of the flame safeguard equipment shall be in conjunction with the regular inspections of boilers.
- 4) Pressure vessels subject to internal corrosion shall receive a certificate inspection every three years. This inspection shall be external and internal where conditions permit. However, owner users qualified in accordance with Section 15 of the Act shall have the option of using API-510 or the N.B.I.C. for inspection intervals.

- 5) Pressure vessels not subject to internal corrosion shall receive a certificate inspection every three years. However, owner users qualified in accordance with Section 15 of the Act shall have the option of using API-510 or the N.B.I.C. for inspection intervals.
- g) Inspection and Inspection Certificate Fees.

- 1) If a boiler or pressure vessel shall, upon inspection, be found to be suitable and to conform to this part, the owner or user shall pay the fees as established by the Board for each boiler and pressure vessel inspected before an Inspection Certificate shall be issued.
- 2) If the owner or user of each boiler or pressure vessel required to be inspected refuses or fails to allow an inspection to be made or refuses or fails to pay the appropriate fee(s), the Inspection Certificate shall be suspended by the Chief Inspector until the owner or user complies with the requirements.
- 3) The owner or user who causes a boiler or pressure vessel to be operated without a valid Inspection Certificate shall be subject to the penalty as provided in the Act.
- h) Inspectors to Have no Other Interests. It is prohibited for any employee of the Division of Boiler and Pressure Vessel Safety to accept any compensation or remuneration from any source for acting as a Consultant, Engineer, Safety Engineer, Safety Specialist, etc., or under any other title. Employees of this Division shall not be engaged

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- in the sale of any article or device that is related to boilers or pressure vessels and shall devote their full time to inspection work.
- i) Installing Used or Second-hand Boilers or Pressure Vessels. A certificate inspection shall be made of all used or second-hand boilers or pressure vessels prior to operation in this State. In a case where a boiler or pressure vessel is moved and reinstalled, the fittings and appurtenances shall be upgraded to comply with the Rules for new installations.
 - j) Inspectors to Notify Chief Inspector of defective boilers and pressure vessels. If an inspector finds that a boiler or pressure vessel or any of the appurtenances are in an unsafe condition the inspector shall immediately notify the Chief Inspector and submit a report of the defects.
 - k) Insurance Agencies to Notify the Chief Inspector of New, Cancelled or Suspended Risks. All Insurance Agencies shall notify the Chief Inspector within 30 days of all boiler or pressure vessel risks written, cancelled, not renewed or suspended in Illinois.
 - l) Manufacturers Data Reports to Be Filed. Effective January 1, 1974, Manufacturers Data Reports on boilers and as amended December 31, 1976, for pressure vessels, which are to be installed in the State of Illinois (unless otherwise exempted by this Part) shall be filed with the Chief Inspector through the National Board. It is intended that each boiler and pressure vessel so filed should be assigned a National Board number.
 - m) Boilers and Pressure Vessels without ASME Stamping. If the boiler or pressure vessel does not bear the ASME stamping, then the drawings, data and material showing all details of construction shall be submitted to the Chief Inspector and his approval obtained before installation in this State. The Chief Inspector shall grant his approval if the construction, materials and inspection requirements meet the Rules except for ASME stamping.
 - n) Notification of Inspection. The owner or user shall prepare each boiler or pressure vessel for internal inspection and shall prepare for and apply a hydrostatic test whenever necessary, on the date specified by an inspector, which date shall be not less than 7 days after the date of notification.
 - o) Owner to Notify Chief Inspector in Case of Accident. Any owner or user, which includes any person, firm, partnership, corporation, or governmental entity, that knowingly fails to notify the Chief Inspector within 24 hours, or on the next business day, of an accident, explosion, event, or incident that serves to render a boiler or pressure vessel inoperative because of damage or failure or that involves any bodily injury or death to any person is guilty of a Class B misdemeanor, if a natural person, or a business offense punishable by a fine of not less than \$501 and not more than \$10,000, if a corporation or governmental entity.
 - p) Penalties. Any person, firm, partnership or corporation violating any of the provisions of this Part shall be subject to the penalties

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provided in the Boiler and Pressure Vessel Safety Act.

- q) Registration of Boilers and Pressure Vessels. All owners or users of boilers and pressure vessels subject to the Act now in use or installed ready for use in the State of Illinois shall notify the Chief Inspector in writing giving the location, type, capacity, age and date of installation.

- r) Removal of Safety Appliances.

1) No person, except under the direction of an Inspector, shall attempt to remove or shall do any work upon safety appliances required by this Part while a boiler or pressure vessel is in operation. Should any of these appliances be repaired during an outage of a boiler or pressure vessel, they must be reinstalled and in proper working order before the object is again placed in service.

2) No person shall in any manner load the safety valve or valves to maintain a working pressure in excess of that stated on the Inspection Certificate.

- s) Stamping of Boilers and Pressure Vessels. Each boiler or pressure vessel subject to the Act shall be identified by a serial number of the State of Illinois. The number will be assigned by the Chief Inspector and applied to the boiler or pressure vessel by the Inspector at the time of inspection. Also, the Code required stamping shall be kept free of paint and legging so that it will be plainly visible and easily read by the Inspector.

- t) Submission of Inspection Reports. Inspection Reports to be submitted by Special Inspectors:

1) Inspection Reports shall be submitted within 30 days from the date of inspection.

2) All pertinent information as required including location and actual conditions observed.

3) Validity of Inspection Certificate. No Inspection Certificate issued for a boiler or pressure vessel inspected by a Special Inspector shall be valid after the boiler or pressure vessel for which it was issued shall cease to be insured by a duly authorized insurance company. The Chief Inspector may at any time suspend an Inspection Certificate when the boiler or pressure vessel for which it was issued may not continue to be operated without menace to public safety, or when the boiler or pressure vessel is found not to comply with this Part. A Special Inspector shall have authority to request suspension of an Inspection Certificate for boilers or pressure vessels insured by the employing company. Such suspension of an Inspection Certificate shall continue in effect until such boiler or pressure vessel shall have been made to conform to this Part.

(Source: Amended at 23 Ill. Reg. 162 effective

JAN 01 1999)

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SUBPART B: CONSTRUCTION, INSTALLATION, INSPECTION, MAINTENANCE, AND USE

Section 120.500 Operation of Boilers and Pressure Vessels

- a) Designation of Operators. Owners of boilers and pressure vessels as defined in the Act shall designate an operator to discharge the duties of operation and maintenance of such devices.
- b) Maintenance Requirements. Owners of boilers and pressure vessels shall maintain such devices in accordance with manufacturers' specifications and this Part pertinent to such devices.
- c) Operational Requirements. Owners of boilers and pressure vessels shall perform periodic checks and operational maintenance of such devices to ensure the structural and technical integrity of the device. Frequency of checks and operational maintenance shall be determined by the manufacturer of the device and this Part. Depending on the size and use of a boiler or pressure vessel, checks and maintenance must be made at designated intervals by the operator. The designated interval and checks shall be as prescribed by, but need not be limited to, the manufacturers' specification(s) and ASME CSD 1 (Controls and Safety Devices for Automatically Fired Boilers). Operators responsible for the maintenance and operation of boilers and pressure vessels shall have the skills necessary to perform those tasks at the level to ensure the safe operation of regulated devices. It is recommended that all operators of boilers and pressure vessels obtain training in the proper operation and maintenance of such devices; training may be obtained through local community colleges, mechanical insurers, trade associations, trade unions, and manufacturers and distributors of such devices.
- d) Recordkeeping. Owners of boilers and pressure vessels shall maintain records of operation and maintenance of devices and make such records available upon request of the Inspector. Such records shall include, but not be limited to, the following information:

- 1) Maintenance history of the device.
- 2) Operational check and maintenance logs.
- 3) Permits, licenses and other regulatory compliance information.
- 4) Problems and operational disruptions due to failure of the device or a device accessory.

Appendix A contains examples of operational and maintenance logs. Records shall be maintained for a period of no less than 3 years from the date of recording.

(Source: Added JAN 01 1999 Ill. Reg. 162 effective

SUBPART C: REPAIR AND ALTERATION

Section 120.1040 Quality Control Requirements

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Quality-Control-System

- a) General
 - 1) Before issuance or renewal of a Certificate of Authorization, the repair organization must meet all requirements including an acceptable Quality Control System, outlined in a written Quality Control System Manual, which shall include material control, fabrication, welding, nondestructive examination, testing and inspection.
 - 2) The Quality Control System Manual shall also include provisions for making revisions, posting and dating changes in the program enabling the System to be kept current as required.
 - 3) The description and information relating to the System may be brief or voluminous, depending upon the circumstances.
 - 4) In general, the Quality Control System Manual shall describe and explain what documents and procedures the repair firm will use to validate a repair.
 - 5) A review of the repair organization's Quality Control System and Manual will be performed by a representative of the Division. The review will include a demonstration of the implementation of the provisions of the repair organization's Quality Control System.
 - 6) Each repair organization to which a Certificate of Authorization is issued shall maintain thereafter an up-to-date copy of its accepted Quality Control System Manual and keep a current copy on file with the Division. Revisions to the Manual shall not be implemented until such revisions are accepted by the Division.
 - b) The following sets the minimum requirements for a Quality Control System for repairs of boilers and pressure vessels. Each repair organization shall develop its own Quality Control System which is designed to meet the requirements of the organization's Requirements for the individual Quality Control System Manuals include:
 - 1) Title Page - The title page shall include the name and address of the repair organization to which the Certificate of Authorization is to be issued. It shall also list the Sections of the ASME Code to which the repairs apply.
 - 2) Revision Log - A revision log is required to assure control over revisions in the Quality Control System Manual. The log shall contain sufficient space for date, description and section of revision, repair organization approval and Division acceptance.
 - 3) Contents Page - The contents page shall list and reference, by paragraph and page number, the subjects and exhibits contained within the System.
 - 4) Statement of Authority and Responsibility - A statement of authority and responsibility shall appear on organization letterhead, dated and signed by an officer of the organization:
 - A) Directing that disagreements in the implementation of the written Quality Control System shall be referred to a higher

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- a) General
 - 1) Before issuance or renewal of a Certificate of Authorization, the repair organization must meet all requirements including an acceptable Quality Control System, outlined in a written Quality Control System Manual, which shall include material control, fabrication, welding, nondestructive examination, testing and inspection.
 - 2) The Quality Control System Manual shall also include provisions for making revisions, posting and dating changes in the program enabling the System to be kept current as required.
 - 3) The description and information relating to the System may be brief or voluminous, depending upon the circumstances.
 - 4) In general, the Quality Control System Manual shall describe and explain what documents and procedures the repair firm will use to validate a repair.
 - 5) A review of the repair organization's Quality Control System and Manual will be performed by a representative of the Division. The review will include a demonstration of the implementation of the provisions of the repair organization's Quality Control System.
 - 6) Each repair organization to which a Certificate of Authorization is issued shall maintain thereafter an up-to-date copy of its accepted Quality Control System Manual and keep a current copy on file with the Division. Revisions to the Manual shall not be implemented until such revisions are accepted by the Division.
 - b) The following sets the minimum requirements for a Quality Control System for repairs of boilers and pressure vessels. Each repair organization shall develop its own Quality Control System which is designed to meet the requirements of the organization's Requirements for the individual Quality Control System Manuals include:
 - 1) Title Page - The title page shall include the name and address of the repair organization to which the Certificate of Authorization is to be issued. It shall also list the Sections of the ASME Code to which the repairs apply.
 - 2) Revision Log - A revision log is required to assure control over revisions in the Quality Control System Manual. The log shall contain sufficient space for date, description and section of revision, repair organization approval and Division acceptance.
 - 3) Contents Page - The contents page shall list and reference, by paragraph and page number, the subjects and exhibits contained within the System.
 - 4) Statement of Authority and Responsibility - A statement of authority and responsibility shall appear on organization letterhead, dated and signed by an officer of the organization:
 - A) Directing that disagreements in the implementation of the written Quality Control System shall be referred to a higher

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qualifications of welders and welding operators. Welding procedure, specifications, welders and welding operators shall be qualified under the requirements specified in the ASME Boiler and Pressure Vessel Code, Section IX. Similarly, NDE and heat treatment techniques must be described in the Quality Control System Manual. When outside services are used, the contracted service provider shall perform in accordance with the Quality Control System Manual and shall meet the requirements of the applicable section of the ASME Code.

11) Calibration of Measurement and Test Gauges - The calibration of measurement and test gauges system shall include the periodic (indicate time schedule) calibration of measuring instruments and pressure gauges.

A) pressure gauges are to be checked periodically by the person authorized (indicate title). The method of gauge testing is to be indicated and results recorded.

B) Periodically, all master instruments shall be calibrated, preferably but not necessarily, to measuring equipment that is traceable to the National Bureau of Standards.

12) Nonconformities - The system shall establish measures for the identification, documentation, evaluation, segregation and disposition of nonconformities. A nonconformity is a condition of any material, item, product or process in which one or more characteristics do not conform to the established requirements. These may include, but are not limited to, data discrepancies, procedural and/or documentation deficiencies or material defects. Also, the title(s) of the individual(s) involved in this process shall be included.

13) Controlled Copy - An up-to-date copy of the written Quality Control Systems Manual shall be submitted to the Division for review and acceptance. Revisions shall also be submitted for acceptance prior to being implemented.

14) Sample Forms - Forms used in the Quality Control System shall be included in the Manual with a written description. Forms exhibited shall be marked "SAMPLE" and completed in a manner typical of actual repair procedures.

15) Individuality Important - It is extremely important that the Quality Control System and Manual be tailored to the operations of the individual repair organization while meeting the requirements of this Subpart.

(Source: Amended at 23 Ill. Reg. 162.4 effective JAN 01 1999)

SUBPART D: STATE SPECIALS

Section 120.1100 Procedure for the Issuance of a State ~~Special~~ Special Permit

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a) The Board of Boiler and Pressure Vessel Safety may issue special permits for boilers and pressure vessels which for some reason were not or cannot be constructed in accordance with an applicable ASME Code.

b) Individuals, corporations, partnerships, joint ventures, and other entities may petition ~~request-of~~ the Board at least 30 days ~~one-month~~ prior to the next meeting of the Board for a permit for the installation of an object not constructed in accordance with the applicable ASME Code.

c) The Board may grant a special installation permit upon consideration of the following ~~items-of~~ information that must be submitted by the petitioner ~~required-to-be-submitted-by-the-applicant~~:

1) A statement of relief sought with all specific information as to why a State Special is requested. This statement must be signed by:

A) An attorney licensed to practice law in the State of Illinois, including the attorney's license number;

B) An officer of the corporation, indicating the officer, if the entity seeking the State Special is a corporation; or

C) The owner or partner, if the entity seeking the State Special is a sole proprietorship or a partnership, respectively.

2) Full details of design and construction showing equivalency to the ASME Code.

3) All data pertaining to the physical and chemical properties of all material used in construction.

4) All calculations showing in detail how the maximum allowable working pressure was derived.

5) A report showing in detail the purposes for which the object is to be used.

6) Any other information the Board may deem necessary to make a decision.

1) The applicant shall provide full details of design and construction showing equivalency to the ASME Code.

2) The applicant shall provide data relating to the physical and chemical properties of all materials used in construction.

3) All calculations must be presented showing in detail how the maximum allowable working pressure was derived.

4) An authentic test record must be provided on all non-code materials used in construction.

5) 10 copies shall be provided.

d) The Board may, by regulation, issue special installation permits to a class of objects meeting the above criteria when it deems that the public interest would be best served by application of the class of objects rather than individual case-by-case determination.

e) The Board may, as a condition to issuance of a special permit, require the installation of additional safety features or prescribe certain

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prescribed operating procedures to be followed **for--objects--to--be issued--a--special--permit**. The Board will use relevant safety data in determining the need for additional **installation of safety features or special operating procedures operating features**.

- f) All information requested by the Board shall be sent to the Division of Boiler and Pressure Vessel Safety with 10 copies provided.
- g) In addition to the above requirements, the petitioner will be required to provide a certified stenographic reporter at the hearing at their expense and one copy of the original transcript of the proceedings shall be sent to the Board. If a special meeting is necessary, the petitioner must agree to pay all travel and costs associated with the special meeting.

(Source: Amended at 23 Ill. Reg. **162** effective

JAN 01 1999)

SUPPORT E: REPAIR OF SAFETY AND SAFETY RELIEF VALVES

Section 120.1260 Quality Control System

- a) General
- 1) Before issuance or renewal of the Certificate of Authorization, the applicant must meet all requirements including an acceptable written Quality Control System which shall include, but not be limited to, material control, fabrication, welding, nondestructive examination, testing and inspection.
 - 2) The written Quality Control System shall also include provisions for making revisions, posting and dating changes in the program enabling the system to be kept current as required.
 - 3) The description and information of the system may be brief or voluminous, depending upon the circumstances.
 - 4) In general, the Quality Control System shall describe and explain what documents and procedures the repair firm will use to validate a valve repair.
 - 5) A review of the applicant's Quality Control System will be performed by a representative of the Division. The review will include a demonstration of the implementation of the provisions of the applicant's Quality Control system.
 - 6) Each applicant to whom a Certificate of Authorization is issued shall maintain thereafter an up to date copy of his accepted Quality Control System Manual with the Division. Revisions to the Quality Control System Manual shall not be implemented until such revisions are accepted by the Division.
 - b) The following are the minimum requirements of the Division for a written Quality Control System for repairs of ASME safety and safety relief valves. It is essential that each valve repair organization develop its own Quality Control System which meets the requirements of its organization. For this reason, it is not possible to develop one

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Quality Control System which could apply to more than one organization. Some of these requirements are:

- 1) Title Page - The title page shall include the name and address of the company to which the Certificate of Authorization is to be issued. It shall also list the Sections of the ASME Code to which the repairs will apply.
- 2) Revision Log - A revision log is required to assure revision control of the Quality Control System Manual. The log shall contain sufficient space for date, description and section of revision, company approval and Division acceptance.
- 3) Contents page - The contents page shall list and reference, by paragraph and page number, the subjects and exhibits contained therein.
- 4) Statement of Authority and Responsibility - A statement of authority and responsibility shall appear on company letterhead, dated and signed by an officer of the company verifying the following:
 - A) If there is a disagreement in the implementation of the written Quality Control System, the matter is referred to the higher authority in the company for resolution; and
 - B) The title of the individual authorized to approve revisions to the written Quality Control System and the method by which such revisions are to be submitted to the Division for acceptance before implementation.
- 5) Organizational Chart - The organizational chart shall include all departments or divisions within the company that perform functions affecting the quality of the valve repair and show the relationship.
- 6) Scope of Work - The scope of work section shall clearly indicate the scope and type of valve repairs the organization is capable of and intends to carry out, and shall include the type and sizes of valves which can be repaired. In addition, the testing media (steam, air, water, etc.) and pressure ranges should be included. The scope can be limited by engineering, machine tools, welding processes, heat treatment facilities, testing facilities, non-destructive examination (NDE) techniques or qualified personnel.
- 7) Drawings and Specification Control - The drawings and specification control system shall provide procedures assuring that the latest applicable drawings, specifications and instructions required are used for valve repair, inspection and testing.
 - A) Specific reference shall be made to the materials used for the repair of the various valve parts (PG-73.2.3, Section I and UG-136 (d)(3), Section VIII, Division 1 of the ASME Code).
 - B) Mechanical requirements shall comply with the ASME Code. See applicable Code Section.

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- 8) Material and Part Control - The material and part control section shall describe procurement of parts from the valve manufacturer, if applicable, and of material with request for mill test certification as required. It shall also describe receiving, storage and issuance as well as the following:

- A) State the title of the individual responsible for the procurement of all material and parts.
 - B) State the title of the individual responsible for certification and other records as required.
 - C) All incoming material and parts shall be checked for conformance with the purchase order and, where applicable, the material specifications or drawings. Indicate how material or part is identified and how identity is maintained by the Quality Control System.
 - D) All critical parts shall be fabricated by the valve manufacturer or to his specifications. Critical parts are defined as any part which may affect the flow passage, capacity, pressure rating or valve function.
- 9) Repair and Inspection Program - The repair and inspection program section shall include reference to a document (such as a report, traveler or checklist) which outlines the specific repair and inspection procedures to be used in the repair of safety and safety relief valves. Provisions shall be made to retain this document for a period of at least five (5) years as a part of quality control traceability documents.

- A) Each valve or group of valves shall be accompanied by the document referred to above for processing through the plant.
- B) The document referred to above shall include material check, reference to items such as the welding procedure specifications (WPS), fit-ups, NDE technique, heat treatment, and pressure test methods to be used. There shall be a space for "sign-offs" at each operation to verify that each step has been properly performed for each valve.
- C) The system shall include a method of controlling the repair or replacement of critical valve parts. The method of identifying each spring shall be indicated.

- 10) Welding, NDE and Heat Treatment (when applicable) - When welded repairs are made by the Certificate holder, the Quality Control System Manual shall indicate the title of the person(s) responsible for the development and approval of the welding procedure specifications and their qualifications, and the qualifications of welders and welding operators. Welding procedures specifications and welders and welding operators shall be qualified to the requirements of the ASME Boiler and Pressure Vessel Code, Section IX. Similarly, NDE and heat treatment techniques must be covered in the Quality Control System Manual. When outside services are used, the Quality Control System Manual shall describe the system, whereby the use of such services meet

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- the requirements of the applicable Section of the ASME Code.
- 11) Valve Testing and Setting - The Quality Control System Manual shall include provisions that each valve shall be tested, set and all external adjustments sealed according to the requirements of the applicable ASME Code section. The seal shall identify the repair organization. Abbreviations or initials are permitted.
 - 12) Valve Repair Nameplates - An effective valve stamping system shall be established to ensure proper stamping of each valve as required by Section 120.1270. The Quality Control System Manual shall include a description of the nameplate or a drawing.
 - 13) Calibration of Measurement and Test Gauges - The calibration measurement and test gauges system shall include the periodic calibration of measuring instruments and pressure gauges.

- A) Pressure gauges used for setting valves are to be checked periodically (indicate time schedule) by the person authorized (indicate title). The method of gauge testing is to be indicated and results recorded.
- B) Periodically, all master instruments shall be calibrated preferably, but not necessarily to measuring equipment traceable to the National Bureau of Standards.
- 14) Controlled Copy - An up to date copy of the written Quality Control System Manual shall be submitted to the Division for review and acceptance. Revisions shall also be submitted for acceptance prior to being implemented.
- 15) Nonconformities - The system shall establish measures for the identification, documentation, evaluation, segregation and disposition of nonconformities. A nonconformity is a condition of any material, item, product or process in which one or more characteristics do not conform to the established requirements. These may include, but are not limited to, data discrepancies, procedural and/or documentation deficiencies or material defects. Also, the title(s) of the individual(s) involved in this process shall be included.

- 16) Sample Forms - Forms used in the Quality Control System shall be included in the manual with a written description. Forms excluded shall be marked "SAMPLE" and completed in a manner typical of actual valve repair procedures.

- 17) 167 Individually Important - It is extremely important that the manual describe and the operation implement the system of each repair organization firm while meeting the requirements of this Subpart.

(Source: Amended 23 Ill. Reg. 102.1, effective JAN 01 1999)

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NOTICE OF ADOPTED AMENDMENT(S)

Section 120, EXHIBIT B Steam Heating Boilers



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OFFICE OF THE STATE FIRE MARSHAL
DIVISION OF BOILER AND PRESSURE VESSEL SAFETY
1035 STEVENSON DRIVE
SPRINGFIELD, IL 62703-4259
(217)782-2696
FAX: (217)782-1062

(217) 762-2030
FAX: (217) 782-1062

[illegible]

(Source: Added at 22 Ill. Reg. _____, effective _____)

Ms. Susan Weir, Bureau Chief

- | | | |
|-----|---|----------------------------|
| 11) | Heading of the Part: Minimum Standards for Certification of Developmental Training Programs | |
| 2) | Code Citation: 59 Ill. Adm. Code 119 | |
| 3) | Section Numbers
119.261 | Adopted Action:
Amended |
| 4) | Statutory Authority: Implementing Section 15.2 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.2] and the Health Care Worker Background Check Act [225 ILCS 46] and authorized by Section 15.2 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.2]. | |
| 5) | Effective Date of Amendments: December 15, 1998 | |
| 6) | Does this rulemaking contain an automatic repeal date? No | |
| 7) | Does this rule contain incorporations by reference? No | |
| 8) | A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection. | |
| 9) | Notice of Proposal Published in Illinois Register: July 31, 1998, 22 Ill. Reg. 14049 | |
| 10) | Has JCRC Issued a Statement of Objections to this amendment? No | |
| 11) | Difference(s) between proposal and final version: None | |
| 12) | Have all the changes agreed upon by the agency and JCRC been made as indicated in the agreement letter issued by JCRC? Yes | |
| 13) | Will this rule replace an Emergency Rule(s) currently in effect? No | |
| 14) | Are there any amendments pending on this Part: No | |
| 15) | Summary and Purpose of Rule(s): Part 119 is being amended to incorporate references to offenses added to the Health Care Worker Background Check Act by P.A. 90-414, approved August 1997 and effective January 1, 1998. In addition, certain technical changes have been made to reflect preferred terminology and the Department's organization and to correct addresses. | |
| 16) | Information and answers to questions regarding this adopted amendment shall be directed to: | |

DEPARTMENT OF HUMAN SERVICES

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Bureau of Administrative Rules and Procedures
 Department of Human Services
 100 South Grand Avenue East
 3rd Floor, Harris Bldg.
 Springfield, Illinois 62762
 (217) 785-9772

The full text of Adopted Amendment(s) begins on the next page:

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TITLE 59: MENTAL HEALTH
 CHAPTER I: DEPARTMENT OF HUMAN SERVICES

PART 119

MINIMUM STANDARDS FOR CERTIFICATION OF DEVELOPMENTAL TRAINING PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section
 119.100
 119.110
 119.120

Applicability
 Incorporation by reference
 Definitions

SUBPART B: PROGRAM REQUIREMENTS

Section
 119.200
 119.205
 119.210
 119.215
 119.220
 119.225
 119.230
 119.235
 119.240
 119.245
 119.250
 119.255
 119.260
 119.261

General requirements
 Criteria for participation of individuals
 Exclusion, suspension or discharge of an individual
 Program staff
 Interdisciplinary team (team)
 Assessment of individuals
 Individual services plan (plan)
 Individual rights and confidentiality
 Special training procedures
 Committees
 Medications and medical care
 Environmental management
 Administrative requirements
 Application for waiver of the prohibition against employment

SUBPART C: CERTIFICATION REQUIREMENTS

Section
 119.300
 119.305
 119.310
 119.315
 119.320
 119.325
 119.330

Issuing a certificate and period of certification
 Application for certification
 Application acceptance and verification
 Non-transferability of a certificate
 Cessation of operations
 Certificate denial
 Hearings

AUTHORITY: Implementing Section 15.2 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.2] and the Health Care Worker Background Check Act [225 ILCS 46] and authorized by Section 15.2 of the Mental Health and Disabilities Administrative Act.

SOURCE: Adopted at 14 Ill. Reg. 17227, effective October 9, 1990; emergency

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amendment at 16 Ill. Reg. 2662, effective February 1, 1992, for a maximum of 150 days; emergency expired June 30, 1992; amended at 21 Ill. Reg. 2195, effective February 1, 1997; amended at 21 Ill. Reg. 6067, effective May 5, 1997; amended at 21 Ill. Reg. 8297, effective June 25, 1997; recodified from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321; amended at 22 Ill. Reg. 7978, effective April 27, 1998; amended at 22 Ill. Reg. 16244, effective August 27, 1998; amended at 23 Ill. Reg. 1004, effective August 27, 1998.

DEC 15 1998

SUBPART B: PROGRAM REQUIREMENTS

Section 119.261 Application for waiver of the prohibition against employment

a) Hiring of direct care employees personnel

A provider shall not knowingly hire or retain any person after January 1, 1998 1999 in a full-time, part-time or contractual direct care position if that person has been convicted of committing or attempting to commit one or more of the following offenses unless the applicant or employee obtains a waiver pursuant to subsections (1) through (1) of this Section (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1 through 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1 through 9-3.3]);

2) Solicitation of murder and solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);

3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5 and 10-7]);

4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1 and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1 and 10-4]);

5) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-6 and 12-7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5 and 12-7]);

6) Sexual assault or abuse (Sections 12-13, 12-14, 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-15 and 12-16]);

7) Indecent solicitation of a child (Section 11-6 of the Criminal Code of 1961 [720 ILCS 5/11-6]);

8) Predatory criminal sexual assault of a child (Section 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-14.1]);

9) Sexual exploitation of a child (Section 11-9.1 of the Criminal Code of 1961 [720 ILCS 5/11-9.1]);

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10) Exploitation of a child (Section 11-19.2 of the Criminal Code of 1961 [720 ILCS 5/11-19.2]);

11) Child pornography (Section 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-20.1]);

12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6]);

13) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53], repealed by P.A. 89-234, effective January 1, 1996);

14) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);

15) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);

16) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-3]);

17) Aggravated robbery (Section 18-3 of the Criminal Code of 1961 [720 ILCS 5/18-3]);

18) Criminal trespass (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4]);

19) Home invasion (Section 12-11 of Criminal Code of 1961 [720 ILCS 5/12-11]);

20) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1]);

21) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961 [720 ILCS 5/24-1 and 24-1.2]);

22) Armed violence (Article 33A of the Criminal Code of 1961 [720 ILCS 5/Art. 33A]);

23) Heinous battery (Section 12-4.1 of the Criminal Code of 1961 [720 ILCS 5/12-4.1]);

24) Tampering with food, drugs or cosmetics (Section 12-4.5 of the Criminal Code of 1961 [720 ILCS 5/12-4.5]);

25) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4]);

26) Ritual mutilation and ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33]);

27) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3]);

28) Vehicular hijacking and aggravated vehicular hijacking (Sections 18-3 and 18-4 of the Criminal Code of 1961 [720 ILCS 5/18-3 and 18-4]);

29) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1 and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1 and 9]);

30) Delivery of cannabis on school grounds (Section 5.2 of the

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- 31) Delivery of cannabis by a person at least 18 years of age to a person under 18 who is at least three years his or her junior (Section 7 of the Cannabis Control Act [720 ILCS 550/71]); and
- 32) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1]).

b) Definitions

For the purposes of this Section, the following terms are defined:

"Applicant." A person seeking employment with a provider who has received a bona fide conditional offer of employment. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15])

"Conditional offer of employment." A bona fide offer of employment by a provider to an applicant, which is contingent on the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (32 & 4) of this Section. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15])

"Direct care." The provision of nursing assistance with meals, dressing, movement, bathing, or other personal needs of maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his or her person whether or not a guardian has been appointed for that individual. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15])

"Initiate." The obtaining of the authorization for a record check from a student, applicant, or employee. The provider shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15])

"Nurse Aide Registry." The registry of nurse aides kept by the Department of Public Health pursuant to Section 3-206.01 of the Nursing Home Care Act [210 ILCS 45/3-206.01].

"UCIA" The Uniform Conviction Information Act [20 ILCS 2635].

c) Nurse Aide Registry

For all applicants for nurse aide positions, the provider shall check the Nurse Aide Registry to determine the date of the applicant's last

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UCIA criminal history record check. *If it has been more than one year since the records check, the provider must initiate or have initiated on its behalf a UCIA criminal history record check for the nurse aide.* (Section 30(b) of the Health Care Worker Background Check Act [225 ILCS 46/30(b)])

d) Conditional offers

Effective January 1, 1996, if the provider makes a conditional offer of employment to an applicant other than a nurse aide who is not exempt under subsection (m) of this Section for a direct care position, the provider shall initiate or have initiated on its behalf a UCIA criminal history record check except as provided for in subsection (e)(2) of this Section. (Section 30(c) of the Health Care Worker Background Check Act [225 ILCS 46/30(c)])

e) Initiation of UCIA criminal history record check

1) By January 1, 1997 the provider must initiate a UCIA criminal history record check for all direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt in accordance with subsection (m) of this Section. (Section 30 of the Health Care Worker Background Check Act [225 ILCS 46/30])

2) If the agency initiated a criminal background check on an employee hired after January 1, 1996 and before January 1, 1999, the agency does not need to initiate an additional criminal history record check to determine if the employee has a record of conviction of any of the offenses enumerated in subsections (a)(2), (7), (9) through (13), (17), (22) through (28), (30) and (31) of this Section. (Section 25.1 of the Health Care Worker Background Check Act [225 ILCS 46/25.1])

f) Request for UCIA criminal history record check

The provider shall request the UCIA criminal history record check in accordance with the requirements of the Department of State Police. (See Ill. Adm. Code 1265.) The provider shall notify the applicant or employee of the following whenever a non-fingerprint UCIA criminal history record search is made. (Section 30 of the Health Care Worker Background Check Act [225 ILCS 46/30]):

- 1) That the provider shall request or have requested on its behalf a UCIA criminal history record check pursuant to the Health Care Worker Background Check Act;
- 2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report and request a waiver in accordance with subsection (3)(1) of this Section;
- 3) That the applicant, if hired conditionally, may be terminated if the criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (32 & 4) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal

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history record based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsection (j)(1) of this Section;

- 4) That the applicant or employee cannot work in a direct care position while a waiver request is pending;
- 5) That the applicant, if not hired conditionally, shall not be hired if the criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (32 & 4) of this Section unless the applicant's record is cleared based on a fingerprint-based record check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsection (j)(1) of this Section;
- 6) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (32 & 4) of this Section unless the record is cleared based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsection (j)(1) of this Section.

g) Conditional employment

The provider may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act [225 ILCS 46/30(g)])

h) Request for fingerprint-based UCIA criminal records check

An applicant, employee, or nurse aide whose UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses enumerated in subsections (a)(1) through (32 & 4) of this Section may request that the provider commence a fingerprint-based UCIA criminal records check by submitting information in a form and manner prescribed by the Department of State Police (see 20 Ill. Adm. Code 1265) within 30 days after receipt of the criminal records report to validate identity and clear one's record. (Section 35 of the Health Care Worker Background Check Act [225 ILCS 46/35])

i) Eligibility for waiver

1) An applicant, employee, or nurse aide may request a waiver of the prohibition against employment. (Section 40 of the Health Care Worker Background Check Act [225 ILCS 46/40])

2) The Department may grant a waiver based on any mitigating circumstances, which may include but not be limited to:

- A) That the applicant's, employee's or nurse aide's age at the time that the crime was committed;
- B) The circumstances surrounding the crime;
- C) The length of time since the conviction;
- D) The applicant or employee's criminal history since the conviction;

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- E) The applicant or employee's work history;
- F) The applicant or employee's current employment references;
- G) The applicant or employee's character references;
- H) Nurse Aide Registry records; and
- I) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, recipients or clients. (Section 40(b) of the Health Care Worker Background Check Act [225 ILCS 46/40(b)])

j) Application for waiver

1) If the applicant, employee or nurse aide wishes to request a waiver, the request shall be submitted within 5 calendar days after receipt of the criminal records report. A complete waiver request shall include the following:

- A) A statement specifying any mitigating circumstances (see subsection (i)(2) of this Section) the person believes are relevant to the employment in question; and
- B) Either:
 - i) Information necessary for the Department to obtain a fingerprint-based UCIA criminal records check, including a suitable set of fingerprints, in a form and manner prescribed by the Department of State Police (see 20 Ill. Adm. Code 1265), the fee for such a check (which shall not exceed the actual cost of the check) and the findings of the required non fingerprint-based UCIA criminal records check conducted by the Department of State Police; or
 - ii) The report of the results of the fingerprint-based UCIA criminal records check done pursuant to subsection (h) of this Section.
- 2) Provider staff may assist the applicant, employee or nurse aide in completing the application.
- 3) The waiver request shall be submitted to:

Accreditation, Licensure and Certification

Office of Accreditation and Licensure

Department of Human Services

405 Stratton Building

Springfield IL 62765

k) Waiver decision

- 1) The waiver request shall be reviewed by a panel of Department staff. The Department shall return a decision to the applicant, employee, or nurse aide and the provider within 30 calendar days after receipt of the completed waiver request including receipt of a report from the State Police based on the fingerprint-based record check.

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- 2) The provider is not obligated to hire or offer permanent employment to an applicant or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act [225 ILCS 46/40(f)])
- 3) The Department shall be immune from liability for any waivers granted. (Section 40(e) of the Health Care Worker Background Check Act [225 ILCS 46/40(e)])
- 1) Appeal of the decision
- 1) The applicant, employee, or nurse aide may request further review of his or her request for a waiver within 30 calendar days after the receipt of the Department's denial of the waiver.
 - 2) The applicant, employee, or nurse aide may submit additional documentation of the mitigating circumstances.
 - 3) The appeal shall be submitted to:

Director

Division of Disability and Behavioral Health Services

Office of the Secretary

Department of Human Services

100 South Grand Avenue East 401-Stratton-Building

Springfield IL 62762 62765

- 4) The Secretary shall act on the appeal within 30 calendar days after receipt of the appeal and shall issue a final decision granting or denying the waiver request.
- m) This Section shall not apply to:
- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law; or
 - 2) An individual employed or retained by the provider as defined by Section 13 of the Health Care Worker Background Check Act [225 ILCS 46/15] for whom a criminal background check is required by another law of this State. (Section 20 of the Health Care Worker Background Check Act [225 ILCS 46/20])
- n) The provider shall send a copy of the results of the UCA criminal history record check to the State Nurse Aide Registry for an individual employed as a nurse aide within 10 working days after receipt of the results. (Section 30(b) of the Health Care Worker Background Check Act [225 ILCS 46/30(b)])
- o) The provider shall retain on file for a period of five years records of criminal records requests for all employees. The files shall be subject to inspection by the Department's Office of Accreditation and Licensure. The provider shall retain the results of the UCA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. A fine of \$500 may be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act [225 ILCS 46/50])

(Source: Amended at 23 Ill. Reg. 190.003, effective
DEC 15 1998.)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Services2) Code Citation: 89 Ill. Adm. Code 5903) Section Numbers: Adopted Action:

590.260 Amended

590.470 Amended

590.660 Amended

590.670 Amended

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3], and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].5) Effective Date of Amendment: December 15, 19986) Does this rulemaking contain an automatic repeal date? No7) Does this rule (amendment, repealer) contain incorporations by reference?
No8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.9) Notice of Proposal Published in Illinois Register: September 4, 1998, 22 Ill. Reg. 1591810) Has JCAR Issued a Statement of Objections to these Rule(s)? No11) Difference(s) between proposal and final version: Minor technical changes.12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes13) Will this rule replace an Emergency Rule(s) currently in effect? No14) Are there any amendments pending on this Part: No15) Summary and Purpose of Rule(s): This Part is being amended in several of its Sections; these are 590.260, Summer School; 590.470, Services/Equipment; 590.660 and 590.670 of Subpart J, Maintenance.

The Summer School amendment in Section 590.260 removes what was a restrictive rule and replaces it with a rule which allows customers to attend summer school when the counselor assessment of the circumstances shows the customer would benefit from summer school.

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Revisions to Section 590.470 are being made to make the rule consistent with the federal Education Department's General Administrative Regulations (EDGAR). The amendment also clarifies ORS' policy on the payment for repair of equipment.

The amendments to Subpart J, Maintenance, were made to bring more consistency to the use of the policy. This revision was the result of comments received from the field staff and the ORS administration's responses to these issues.

16) Information and answers to questions regarding this adopted rule shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
217/785-9772

The full text of Adopted Amendment(s) begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
 SUBCHAPTER B: VOCATIONAL REHABILITATION

PART 590
 SERVICES

SUBPART A: APPLICABILITY

Section	
590.10	General Applicability
590.20	Availability of Services
590.30	Effect of Financial Status on Services
590.35	Effect of Comparable Benefits
590.40	Choice of Service Providers

SUBPART B: MEDICAL, PSYCHOLOGICAL AND RELATED SERVICES

Section	
590.50	Provision of Services
590.60	Qualification of Medical and Psychological Service Providers
590.70	Treatment of Acute Conditions
590.80	Medication and Treatment
590.90	Hearing Aids
590.100	Binaural Hearing Aids
590.110	Speech and Language Services
590.120	Low Vision Aids
590.130	Mental Restoration Services
590.140	Heart Surgeries
590.150	Kidney Transplant and Related Services
590.160	Chiropractic Services
590.170	Prosthetic and Orthotic Device
590.180	Wheelchairs
590.190	Prohibited Services

SUBPART C: TRAINING AND RELATED SERVICES

Section	
590.200	Provision of Services
590.210	Qualification of Training Facilities/Institutions
590.220	Purpose and Types of Training
590.230	Financial Guidelines for Training Services
590.240	Graduate School Training
590.250	Choice of Training Facility/Institution
590.260	Summer School
590.270	Grades
590.280	Health Status
590.290	On-the-Job Training

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Default on Educational Loans

SUBPART D: TOOLS, EQUIPMENT, SUPPLIES AND INITIAL STOCK

590.300	
Section	
590.310	Provision of Services
590.320	Self-Employment Program
590.330	Services/Goods not Available
590.340	Bidding Requirements
590.350	Recovery of Tools, Equipment, Supplies and Initial Stock
590.360	Transfer of Title
590.370	Limitation of Financial Participation (Repealed)

SUBPART E: VEHICLE ADAPTATION AND ENVIRONMENTAL MODIFICATION

Section	
590.375	Provision of Services
590.380	Vendor Requirements
590.390	Bidding Requirements
590.400	Vehicle Adaptation
590.410	DHS-ORS Financial Participation in Van Adaptation
590.420	Environmental Modification
590.430	Written Agreements for Environmental Modification
590.440	Compliance with Capital Development Board Specifications

SUBPART F: PERSONAL SUPPORT SERVICES AND AUXILIARY AIDS

Section	
590.450	Provision of Services
590.460	Types of Services
590.470	Services/Equipment
590.480	Qualifications for Services Provided by Individuals
590.490	Payment for Support Services Provided by Individuals and Conditions of Service Provision

SUBPART G: COMPUTER EQUIPMENT AND SENSORY AID LOAN

Section	
590.500	Provision of Services (Repealed)
590.510	Definitions (Repealed)
590.520	Purpose of Equipment Loans (Repealed)
590.530	Criteria for Loan of Equipment/Aids (Repealed)
590.540	Equipment/Aids Loan Request Procedures and Approval Process (Repealed)
590.550	Duration of Loans (Repealed)
590.560	Maintenance and Return of Equipment/Aids (Repealed)
590.570	Assistance in Obtaining Permanent Equipment/Aids (Repealed)
590.580	Limitations on Available Equipment/Aids (Repealed)

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SUBPART H: OTHER SERVICES

Section
590.590 Provision of Services
590.600 Transportation and Temporary Lodging
590.610 Other Goods and Services
590.620 Equipment Sets

SUBPART I: PLACEMENT

Section
590.630 Provision of Placement Services
590.640 Description of Services

SUBPART J: MAINTENANCE

Section
590.650 Provision of Services
590.660 Definitions
590.670 Determination of the Need for Maintenance
590.675 Determination of Client Financial Participation in Maintenance
590.680 Exceptions to Basic Needs Level

SUBPART K: POST-EMPLOYMENT SERVICES

590.700 Provision of Services
590.710 Definitions
590.720 Scope of Services

SUBPART L: TRANSITION

590.730 Provision of Services
590.740 Definitions
590.750 Secondary Transitional Experience Program (STEP)

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405(3)] and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

SOURCE: Emergency Rules adopted at 17 Ill. Reg. 11812, effective July 1, 1993, for a maximum of 150 days; adopted at 17 Ill. Reg. 120461, effective November 15, 1993; amended at 18 Ill. Reg. 11275, effective June 30, 1994; Emergency amendment at 18 Ill. Reg. 16466, effective October 20, 1994, for a maximum of 150 days; amended at 19 Ill. Reg. 7260, effective May 12, 1995; amended at 19 Ill. Reg. 7435, effective May 19, 1995; amended at 19 Ill. Reg. 10153, effective June 29, 1995; amended at 19 Ill. Reg. 10709, effective June 29, 1995; amended at 20 Ill. Reg. 6319, effective April 18, 1996; amended at 20 Ill. Reg. 6523, effective April 18, 1996; amended at 20 Ill. Reg. 10375,

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effective July 19, 1996; amended at 21 Ill. Reg. 1395, effective January 17, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 201 ~~1~~ ² effective DEC 15 1998.

SUBPART C: TRAINING AND RELATED SERVICES

Section 590.260 Summer School

Summer school may be provided to a customer who, based upon his/her counselor's assessment of the individual circumstances, would benefit from attending summer school.

Summer school shall be provided only for those clients who:

- will graduate at the conclusion of the summer term; or
- must complete a course sequence for a degree/graduation requirement and the particular course is offered only during the summer term.

(Source: Amended at 23 Ill. Reg. 201 ~~1~~ ², effective DEC 15 1998)

SUBPART F: PERSONAL SUPPORT SERVICES AND AUXILIARY AIDS

Section 590.470 Services/Equipment

a) DHS-ORS shall provide such services to the customer as determined necessary as a result of the Extended Evaluation (89 Ill. Adm. Code 553.80) and/or the Comprehensive Assessment of Rehabilitation Needs Summary (89 Ill. Adm. Code 553.100) for the completion of his/her employment objective as described in his/her IWRP (89 Ill. Adm. Code 572).

b) Services provided by an individual (i.e., interpreter for the deaf, notetaker, reader, PA services) under this Subpart shall continue until the completion of the customer's IWRP and attainment of a successful employment outcome and as determined necessary by the customer and counselor.

c) DHS-ORS shall retain title to any equipment purchased for use by a customer. Prior to the purchase of any equipment for customer use, the customer must agree to maintain the equipment in proper working order and condition; agree to insure the equipment against loss; agree to replace the equipment if a loss occurs, and agree to return the equipment to DHS-ORS at any time the customer has no further use for the equipment or is otherwise not using the equipment for the purpose for which it was purchased. In the event a customer believes repair to the equipment are either cost prohibitive or not beneficial in terms of useful life of the equipment, he/she may request assistance from DHS-ORS in obtaining necessary equipment repair/replacement.

d) The customer may retain the equipment even after he/she has

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successfully attained his/her vocational goal and his/her case has been closed, pursuant to 89 Ill. Adm. Code 617, as long as he/she is using the equipment for the purpose for which it was originally purchased.

(Source: Amended at 23 Ill. Reg. 201 effective DEC 15 1998)

SUBPART J: MAINTENANCE

Section 590.660 Definitions

For the purpose of this Subpart, the following term shall have the following meanings.

Additional Costs - increased basic living these costs incurred by a customer client as a direct result of his/her participation in an Individualized Written Rehabilitation Program (IWRP) (89 Ill. Adm. Code 572). This includes any decrease in income caused by participation in an IWRP.

Basic Living Costs Needs - the minimum amount of money needed by an individual to maintain a standard of living that allows the individual to or level-of-goods-and services-an-individual-needs--to subsist in an environment which does not put the individual at undue risk to health and safety. These needs include, but are not limited to, housing, food, clothing, utilities (e.g., electricity, natural gas, water and sewer charges, and local telephone service), personal hygiene products, and on-going medical care.

Basic living costs needs do not include expenses for items such as cosmetics, cable television, automobile loan payment, automobile insurance, consumer debt, entertainment, long distance telephone charges, or costs associated with an individual's choice of living arrangements.

Maintenance - monies paid to a customer client to cover additional basic living costs, as defined above.

(Source: Amended at 23 Ill. Reg. 201 effective DEC 15 1998)

Section 590.670 Determination of the Need for Maintenance

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a.) The MONTHLY CUSTOMER MAINTENANCE WORKSHEET (IL 488-0692) must be used to determine the need for maintenance and the dollar amount, if any. DHS-ORS may pay to cover additional basic living costs.

b.) Maintenance, as defined in Section 590.660, shall be provided to a customer client to cover the additional costs incurred as a result of participation in the services and activities necessary to overcome the impediment to employment in line with the provisions of Section 590.680 and as listed in the IWRP (89 Ill. Adm. Code 572).

c.) To determine the amount of maintenance which DHS-ORS can provide to an individual, DHS-ORS shall subtract the individual's actual cost for basic needs prior to beginning VR services from the anticipated cost for basic needs while participating in VR services. This amount, less any required customer client financial participation towards maintenance (Section 590.675) shall be the amount of maintenance for which an individual is eligible.

d.) To establish the anticipated cost for basic needs for an individual while participating in VR services, DHS-ORS shall:

- 1) use the lowest cost for living expenses published by the facility the individual will be attending if there is a published cost; or
- 2) if such a cost is not published, require a full documented listing of these costs, prepared and agreed to by the customer client and counselor. The costs used for this listing must be from documentable sources and of a nature which would be relied upon by a reasonably prudent individual in the conduct of his/her affairs.

e.) Pursuant to DHS-ORS rules in Section 590.40, the client may choose his/her living arrangement, but DHS-ORS, in the calculation of maintenance, shall use the lowest cost determined by the counselor as adequate and necessary to meet the customer's client's basic needs.

(Source: Amended at 23 Ill. Reg. 201 effective DEC 15 1998)

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- 1) Heading of the Part: Annual Privilege Tax
- 2) Code Citation: 50 Ill. Adm. Code 2510
- 3) Section Numbers:
2510.10 New Section
2510.20 New Section
2510.30 New Section
2510.40 New Section
2510.50 New Section
2510.60 New Section
2510.70 New Section
2510.80 New Section
2510.90 New Section
2510.100 New Section
2510.110 New Section
2510.120 New Section
ILLUSTRATION A New Section
ILLUSTRATION B New Section
ILLUSTRATION C New Section
ILLUSTRATION D New Section
- 4) Statutory Authority: Implementing Section 409 and authorized by Sections 401 and 409(5) of the Illinois Insurance Code [215 ILCS 5/401, 409 and 409(5)] (see P.A. 90-583, effective May 29, 1988).
- 5) Effective Date of Rule: December 21, 1998
- 6) Does this rule contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 25, 1998, 22 Ill. Reg. 16673
- 10) Has JCAR issued a Statement of Objections to this Rule? No
- 11) Difference(s) between proposal and final version:
 - a) In the Table of Contents, Section 2510.111. Illustration C add "Privilege and Retaliatory" following "Annual".
 - b) Section 2510.10, 2510.20, 2510.20(a)(2), (6) on the fourth and sixth line and (7) on the sixth and eighth line add "Illinois Insurance"

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- following "the".
- c) Section 2510.20(a)(6) delete "or 31" and "whichever is greater," on the second line.
- d) Section 2510.20(a)(6) move "as hereafter amended," to follow "Statement" on the third line.
- e) Section 2510.40 on the last line of the introductory paragraph delete "the Illinois Insurance Code [215 ILCS 5/1 through 165/30]" and add "any of the Acts in Chapter 215 of the Illinois Compiled Statutes" in lieu thereof.
- f) Section 2510.40, in the definition of "Aggregate Income Taxes Paid" delete "or taxing period" and change "(a) and (d)" to "(a) through (d)" on the third line. Also delete "or taxing period" on the last line.
- g) Section 2510.40 delete the definition of "Corporate Income Tax".
- h) Section 2510.40 add "Gross Amount of Premium Received means any amount which is accounted for as direct premium written and reported in the Annual Statement filed with the Department referenced in Section 2510.20 of this Part, or any amount which is otherwise accounted for as direct premium written."
- i) Section 2510.40, in the definition of "Gross Taxable Premium Written" delete "written and as filed and reported in the company's Annual Statement during the calendar year" on the second line and add "received on direct business during the calendar year" in lieu thereof. Also beginning with "the gross amount of premiums" on the first line all remaining text should be italicized except for the statutory citations.
- j) Section 2510.40 delete the definition of "Premium Written or Premium Received".
- k) Section 2510.40 delete the definition of "Replacement Income Tax".
- l) Section 2510.50(a)(1) add "starting at different periods and at" following "assessed" on the third line.
- m) Section 2510.50(a)(2) add "insurance" following "health" on the second line.
- n) Section 2510.50(a)(2) delete "the" on the sixth line.
- o) Section 2510.50(a)(2) add "shall" following "and" on the seventh line.

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- p) Section 2510.50(a)(2) add a comma following "documentation" and "Statements" on the eighth line.
- q) Section 2510.50(a)(3) delete "the" on the first line.
- r) Section 2510.60(a)(2) delete "on a cash basis" on the second line.
- s) Section 2510.60(a)(2) change "-" to "through" on the fifth line.
- t) Section 2510.60(a)(2)(A) add "preceding" following "the" and also add "(January 1 through December 31)" following "year" on the last line.
- u) Section 2510.60(a)(2)(B) add "corporate and/or replacement" in front of "income" on the second line.
- v) Section 2510.60(a)(2)(B) add "corporate and/or replacement income" following "the" on the seventh line.
- w) Section 2510.60(a)(2)(B) add "corporate and/or replacement income" ahead of "tax" on the second to the last line.
- x) Section 2510.60(b) add "aggregate" following "state" on the second line.
- y) Section 2510.60(b)(1) change "annuities" to "annuity" and add "considerations (excluding annuity deposit funds)" thereafter on the third line.
- z) Section 2510.60(b)(1) add "tax" following "group's" three lines up from the bottom and also add "received in that same calendar year if that tax cash refund had been considered part of the aggregate income taxes paid for an offset calculation in subsection (a)(2) of this Section taken in the preceding calendar year" following "refunds".
- aa) Section 2510.60(b)(2) add "aggregate" following "the" on the second line.
- bb) Section 2510.60(c) delete "(a)" following "and" on the second line.
- cc) Section 2510.70(a) add "returns" following "annual" on the second line. Also change "installments" to "statements" on the third line.
- dd) Section 2510.70(a)(2) change "installments" to "statements" on the first line.
- ee) Section 2510.70(a)(2) add a comma following "year" on the fifth line.
- ff) Section 2510.70(a)(2) change "statement" to "return" two lines up from

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- the bottom.
- gg) Section 2510.70(b) delete ", starting" and "and thereafter," on the first line.
- hh) Section 2510.70(b) change "installments" to "statements" on the seventh line.
- ii) Section 2510.70(b) add a comma following "year" on the eleventh line.
- jj) Section 2510.70(b) change "statement" to "return" on the last line.
- kk) Section 2510.70(d) add "timely" following "to make a" on the second line.
- ll) Section 2510.80 add "(3)" following "409" on the fifth line.
- mm) Section 2510.80 delete the comma following "written" and add "or" on the sixth line in lieu thereof.
- nn) Section 2510.80 change "tax payer" to "taxpayer" three lines up from the bottom.
- oo) Section 2510.90 change "their" to "its" on the second line.
- pp) Section 2510.90(a) change "privilege retaliatory" to "privilege/retaliatory" on the first line.
- qq) Section 2510.90(a) add "annually" following "as" on the second line and also add "and updated" following "sent".
- rr) Section 2510.100 add a period following "due", delete "and" on the fifth line and add "in such cases the Director may" in lieu thereof.
- ss) Section 2510.110 add "timely" ahead of "make" twice on the second line and add "statement" following "quarterly".
- tt) Section 2510.110 add a comma following "year" on the fourth and fifth line.
- uu) Section 2510.110 add "and interest" following "penalty" on the fifth line.
- vv) Section 2510.120 on the third line delete "A request for hearing shall be made pursuant to" and add "the hearing request shall be made pursuant to 50 Ill. Adm. Code 2500.50 and shall be based on" in lieu thereof.

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ww) Section 2510.120 delete the last sentence.

xx) Section 2510.Illustration A and C were reformatted and minor nonsubstantive changes were made.

12) Have all changes agreed upon by the agency and JCRC been made as indicated in the agreements issued by JCRC? No. The Department did not agree to make the changes listed under number three or six of the Second Notice Changes document.

13) Will this rule replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) **Summary and Purpose of Rulmaking:** This Part describes how the re-enacted privilege tax is to be calculated, specifies applicability, establishes the annual privilege tax return filing requirements and sets forth the payment schedule for the privilege tax. Additionally, this Part explains the penalties that may be assessed for failure to pay the privilege tax, or to make timely payments. In addition, this Part contains four illustrations: one demonstrating the calculation of the Annual Privilege Tax; an illustration on how a unitary group allocates its State corporate and replacement income taxes for the purposes of deducting from their privilege tax liability; a tax return and quarterly tax statement; and pages showing direct business in the State of Illinois.

16) Information and questions regarding this adopted rule shall be directed to:

Chuck Feinen
Staff Attorney
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
217/557-1396

The full text of the Adopted Rules begins on the next page.

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TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ee: FEES, CHARGES AND TAXES

PART 2510
ANNUAL PRIVILEGE TAX

Section	Purpose	
2510.10	Applicability	
2510.20	Severability	
2510.30	Definitions	
2510.40	Calculation of Annual Privilege Tax Amount	
2510.50	Deductions to Annual Privilege Tax Amount	
2510.60	Payment Schedule for the Annual Privilege Tax	
2510.70	Annual Privilege Tax Allocation in Merger, Consolidation,	
2510.80	Reorganization, or Reincorporation	
2510.90	Annual Privilege Tax Filing Requirements	
2510.100	Waiver, Deferral, or Abatement of the Annual Privilege Tax	
2510.110	Civil Penalties and Interest	
2510.120	Hearings	
	ILLUSTRATION A Calculation of the Annual Privilege Tax	
	ILLUSTRATION B Unitary Group Allocation Calculation	
	ILLUSTRATION C Annual Privilege and Retailatory Tax Return and Quarterly Tax Statement	
	ILLUSTRATION D Direct Business in the State of Illinois	

AUTHORITY: Implementing Section 409 and authorized by Sections 401 and 409(5) of the Illinois Insurance Code [215 ILCS 5/401, 409 and 409(5)] (see P.A. 90-583, effective May 29, 1998).

SOURCE: Adopted at 23 Ill. Reg. 209 * effective

Section 2510.10 Purpose

This Part sets forth certain procedural requirements for the filing of the annual privilege tax, and explains the calculation of the annual privilege tax that is collected pursuant to Section 409(1) of the Illinois Insurance Code [215 ICS 5/409(1)] (see P.A. 90-583, effective May 29, 1998).

Section 2510.20 Applicability

This Part applies to companies that write certain types of insurance in any calendar year. If a company writes one or a combination of any of the types of insurance listed in subsection (a) of this Section, an annual privilege tax is owed by that company pursuant to Section 2510.50 of this Part and Section 409(l) of the Illinois Insurance Code [215 ILCS 5/409(l)].

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- a) This Part applies to companies that write any of the following types of premiums:

- 1) Premiums written by Health Maintenance Organizations as reported on Schedule T page 60, at line 14, column 4 in the 1998 Annual Statement, as hereafter amended, filed with the Department pursuant to Section 2.7 of the Health Maintenance Organization Act [215 ILCS 125/2.7];
 - 2) Premiums written for accident and health insurance as reported by Life Insurance Companies on page 21, at line 25, column 2, minus line 23.1, column 2, and for Property and Casualty Insurance Companies on page 15, at lines 13, 14, 15.1, 15.2, 15.3, 15.4, 15.5 and 15.6, column 2, of the 1998 Annual Statement, as hereafter amended, filed with the Department pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136];
 - 3) Premiums written by Voluntary Health Service Plans as reported on Schedule T page 56, at line 14, column 4, of the 1998 Annual Statement, as hereafter amended, filed with the Department pursuant to Section 2007 of the Limited Health Service Organization Act [215 ILCS 130/2007];
 - 4) Premiums written by Dental Service Plans as reported on page 7, at line 4, column 1, in the 1998 Annual Statement, as hereafter amended, filed with the Department pursuant to Section 36 of the Dental Service Plan Act [215 ILCS 110/36];
 - 5) Premiums written by Limited Health Service Organizations as reported on Schedule T page 56, at line 14, column 4, in the 1998 Annual Statement, as hereafter amended, filed with the Department pursuant to Section 2007 of the Limited Health Service Organization Act [215 ILCS 130/2007];
 - 6) Premiums written by Risk Retention Groups as reported on page 15, at line 32, column 2, on the 1998 Annual Statement as hereafter amended, filed with the Department pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136] minus premiums specifically exempted by subsection (b) of this Section or Section 409 of the Illinois Insurance Code [215 ILCS 5/409];
 - 7) Premiums written for all other types of insurance as reported by Life Insurance Companies on page 21, at line 1, column 6, and by Property and Casualty Insurance Companies on page 15, at line 32, column 2, of the 1998 Annual Statement, as hereafter amended, filed with the Department pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136] minus premiums specifically exempted by subsection (b) of this Section or Section 409 of the Illinois Insurance Code [215 ILCS 5/409].
- b) There is no annual privilege tax owed for premiums written by the listed entities or on the types of premiums written as follows:
- 1) All Fraternal Benefit Societies;
 - 2) All Farm Mutual companies;
 - 3) All Religious and Charitable Risk Pooling Trusts;
 - 4) All coverage written by an Illinois statutory residual market

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entity:

- 5) Assessment Legal Reserve Life companies;
- 6) All Burial Societies;
- 7) All Self-Insurers;
- 8) All Mutual Benefit Associations;
- 9) All Group Workers' Compensation Self-Insurance Pooling Trusts;
- 10) Illinois Insurance Exchange (INEX Insurance Exchange);
- 11) Risk Purchasing Groups;
- 12) All Industrial captive insurance companies;
- 13) All Pure captive insurance companies;
- 14) All Association captive insurance companies; and
- 15) All Domestic Surplus Line Insurers.

Section 2510.30 Severability

If any Section, subsection, paragraph, sentence, clause, or phrase of this Part is declared invalid for any reason, the remaining portions of this Part that are severable from the invalid portion shall remain in full force and effect. If a part of this Part is declared invalid in one or more of its applications, the remaining portion shall be severable and in effect in all valid applications.

Section 2510.40 Definitions

Except as stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part which are not defined below, shall be the same as those used in 50 Ill. Adm. Code 2500.40 or any of the Acts in Chapter 215 of the Illinois Compiled Statutes.

Aggregate Income Taxes Paid means the actual corporate and replacement income tax cash payment made in any calendar year pursuant to Section 201(a) through (d) of the Illinois Income Tax Act [35 ILCS 5/201(a) through (d)] and does not mean the total liability owed for any calendar year.

Fire Department Tax means the tax pursuant to Section 11-10-1 of the Illinois Municipal Code [65 ILCS 5/11-10-1] collected by local governments and does not mean the State Fire Marshal Tax discussed in 50 Ill. Adm. Code 2520.

Gross Amount of Premium Received means any amount which is accounted for as direct premium written and reported in the Annual Statement filed with the Department referenced in Section 2510.20 of this Part, or any amount which is otherwise accounted for as direct premium written.

Gross Taxable Premium Written means the gross amount of premiums received on direct business during the calendar year on contracts

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covering risks in this State, except premiums on annuities, premiums on which State premium taxes are prohibited by federal law, premiums paid by the State for health care coverage for Medicaid eligible insureds as described in Section 5-2 of the Illinois Public Aid Code [305 ILCS 5/5-2], premiums paid for health care services included as an element of tuition charges at any university or college owned and operated by the State of Illinois, premiums on group insurance contracts under the State Employees Group Insurance Act of 1971, as amended and premiums for deferred compensation plans for employees of the State, units of local government or school districts [215 ILCS 5/409(1)].

Net Taxable Premium Written means the gross taxable premium written reduced only by the following:

The amount of premiums returned thereon which shall be limited to Premiums returned during the same preceding calendar year and shall not include the return of cash surrender values or death benefits on life policies; and

Dividends on such direct business that have been paid in cash, applied in reduction of premiums or left to accumulate to the credit of policyholders. In the case of life insurance, no deduction shall be made for the payment of deferred dividends paid in cash to policyholders on maturing policies; dividends left to accumulate to the credit of policyholders or annuitants shall be included as gross taxable premium written when such dividend accumulations are applied to purchase paid-up insurance or to shorten the endowment or premium paying period [215 ILCS 5/409(1)].

Unitary Group means a unitary business group as defined by Section 1501 of the Illinois Income Tax Act [35 ILCS 5/1501] to be a group of persons related through common ownership whose business activities are integrated with, dependent upon and contribute to each other.

Section 2510-50 Calculation of Annual Privilege Tax Amount

- a) An annual privilege tax will be assessed on companies by the types of premium written pursuant to Section 409(1) of the Code [215 ILCS 5/409(1)] in accordance with following schedule:
 - 1) As of January 1, 1998, 0.5% of the net taxable premiums written on all insurance premiums which are not exempted pursuant to Section 2510-20(b) of this Part or assessed starting at different periods and at a different rate pursuant to the schedule set forth in subsection (a)(2) or (3) of this Section;
 - 2) Starting on July 1, 1998, and thereafter, 0.4% of net taxable premiums written by or on all accident and health insurance,

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voluntary health service plan, dental service plan, or limited health service organization businesses. For the calendar year 1998 annual privilege tax, companies shall calculate the net taxable premiums written only on net taxable premiums written after July 1, 1998 and shall provide additional documentation, such as quarterly statements, to verify such net taxable premiums written. For calendar year 1999, and thereafter, the companies shall calculate the net taxable premiums written for the whole year and are only required to provide the information required in Section 2510-30 of this Part; and

- 3) Starting January 1, 1999, and thereafter, 0.4% of net taxable premiums written by all health maintenance organizations.
- b) Companies should total the annual privilege tax owed pursuant to the different types of premiums written and then deduct any allowable amount, as set forth in Section 2510-60 of this Part, to arrive at the annual privilege tax owed. An example of this calculation is set forth in Illustration A of this Part which includes examples for the different types of companies.

Section 2510-60 Deductions to Annual Privilege Tax Amount

- a) The total annual privilege tax due from a company shall be reduced, pursuant to Section 409(2) of the Code [215 ILCS 5/409(2)], as follows:

- 1) By the amount of any fire department taxes paid by the company during the preceding calendar year under Section 11-10-1 of the Illinois Municipal Code [65 ILCS 5/11-10-1]; and
- 2) By any excess amount, on the annual privilege tax due date, that the company's aggregate income taxes paid in the preceding calendar year (January 1 through December 31) under Section 201(a) through (d) of the Illinois Income Tax Act [35 ILCS 5/201(a) through (d)] exceed 1.5% of the company's net taxable premium written.

- A) A company's aggregate income taxes paid shall be the total of the corporate and replacement income tax paid in the preceding calendar year (January 1 through December 31).
- B) The aggregate income taxes paid shall be reduced by any corporate and/or replacement income tax cash refunds received in that same calendar year if that cash refund had been considered part of the aggregate income taxes paid for an offset calculation in subsection (a)(2) of this Section taken in a preceding calendar year. If no deduction was taken pursuant to subsection (a)(2) of this Section (in which the corporate and/or replacement income tax cash refund received was part of the aggregate income taxes paid used in determining the calculation pursuant to subsection (a)(2) of this Section) then the aggregate income taxes paid for the calendar year in which that corporate and/or

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replacement income tax cash refund is received shall not be reduced by that tax cash refund amount.

- b) If the company is part of a state income tax Unitary group, to determine each company's state aggregate income tax offset pursuant to subsection (a)(2) of this Section, an allocation of the aggregate income taxes described in subsection (a)(2) of this Section must be completed pursuant to the following:

- 1) The allocation of the aggregate income taxes paid for the unitary group will be based on each individual company's Illinois premium written, including annuity considerations (excluding annuity deposit funds), as reported in each company's Annual Statement as a percentage of the Unitary group's total premium written. Each company's determination of the aggregate income taxes paid is the allocation percentage multiplied by the Unitary group's amount of the corporate and replacement income taxes paid in the calendar year, less the Unitary group's tax cash refunds received in that same calendar year if that tax cash refund had been considered part of the aggregate income taxes paid for an offset calculation in subsection (a)(2) of this Section taken in the preceding calendar year multiplied by that company's allocation percentage. Illustration B is an example of this calculation.

- 2) Each company may only use its allocated portion for the determination of the aggregate income tax deduction and may not transfer any allocated aggregate income taxes to another company or carry forward to another year.

- c) Any deductible amount or offset allowed to be taken and which is not used or is taken pursuant to subsections (a)(1) and (2) of this Section for any calendar year will not be allowed as a deduction or offset against the company's annual privilege tax for any other taxing period or calendar year.

Section 2510.70 Payment Schedule for the Annual Privilege Tax

- a) In the year 1999 and thereafter, all companies, other than health maintenance organizations, shall make annual returns and quarterly statements of their estimated annual privilege tax as follows:

- 1) All companies shall make an annual return for the preceding calendar year, on or before March 15; and
- 2) Payments of quarterly statements of the company's total estimated privilege tax for the current calendar year shall be due on or before April 15, June 15, September 15 and December 15 of each year in the amount of at least 1/4 of either the total tax paid during the previous calendar year, or 80% of the tax due to be paid for the current calendar year. However, those companies whose annual privilege tax for the immediately preceding calendar year is less than \$5,000 shall only be required to file an annual return statement pursuant to subsection (a)(1) of this Section.

- b) Health maintenance organizations in the year 2000 shall make an annual

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return for the 1999 calendar year on or before March 15, but are not required to file quarterly statements for the calendar year 1999. Starting in the year 2000 and thereafter, in addition to an annual return filed on or before March 15, health maintenance organizations shall make payments of quarterly statements of the total estimated privilege tax for the current calendar year and shall be due on or before April 15, June 15, September 15 and December 15 of such year, in the amount of at least 1/4 of either the total tax paid during the previous calendar year, or 80% of the tax due to be paid for the current calendar year. However, those health maintenance organizations whose annual privilege tax for the immediately preceding calendar year is less than \$5,000 shall only be required to file an annual return.

- c) Payment of such annual returns and quarterly statements shall include such information as prescribed in Illustration C and Section 2510.90 of this Part and be made pursuant to 50 Ill. Adm. Code 2500.70(b).

- d) Failure to file a return, even if no tax is owed, or to file quarterly statements, if required, or to make a timely payment, will subject the company to penalties pursuant to Section 2510.110 of this Part.

Section 2510.80 Annual Privilege Tax Allocation in Merger, Consolidation, Reorganization, or Reincorporation

When a company survives or was formed by a merger, consolidation, reorganization or reincorporation, the premiums written or received, amounts returned or paid by all companies party to such merger, consolidation, reorganization or reincorporation shall, for purposes of determining the amount of the annual privilege tax imposed by Section 409(3) of the Code, be regarded as written or received, returned or paid by such surviving or new company [215 ILCS 5/409(3)]. No tax deduction, credit, or offset shall be transferred as a result of a merger, consolidation, reorganization or reincorporation if the company who holds the tax deduction, credit, or offset still exists after the merger, consolidation, reorganization or reincorporation. Additionally, no tax deduction, credit, or offset shall be considered transferred or owned by another taxpayer simply as the result of an assumption reinsurance agreement or as a result of a restructuring of a company or companies.

Section 2510.90 Annual Privilege Tax Filing Requirements

Each company required to file an annual privilege tax return pursuant to this Part must file its annual return, even if no tax is owed, with the following information:

- a) The applicable information set forth in the privilege/reinstatement tax return as annually sent and updated by the Department and as shown in Illustration C of this Part;
- b) Proof of payment of all privilege tax deductions taken, such as copies of canceled checks;
- c) If filing as part of a Unitary group the Department's Unitary Schedule

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d) must be completed and attached; and
The applicable premium information as set forth in Illustration D of this Part which are blank copies of the Direct Business pages filed with the annual statement as established by the National Association of Insurance Commissioners.

Section 2510.100 Waiver, Deferment, or Abatement of the Annual Privilege Tax

Upon a written request from the company or by the Director's own decision, the Director may, pursuant to Section 409(5) of the Code (215 ILCS 5/409(5)), determine in his opinion the company's solvency and ability to meet its insured obligations would be immediately threatened by payment of the annual privilege tax due. In such cases the Director may defer, waive or abate the annual privilege tax. Such written request from the company shall contain all financial information necessary for the Director to make his determination.

Section 2510.110 Civil Penalties and Interest

Failure of a company to file the annual tax return, even if no tax is owed, to timely make the annual privilege tax payment, or to timely make the quarterly statement payments, if required, of at least 1/4 of either the total tax paid during the previous calendar year, or 80% of the tax due to be paid for the current calendar year, shall subject it to the penalty and interest provisions set forth in Section 412 of the Code (215 ILCS 5/412) and as assessed pursuant to 50 Ill. Adm. Code 2525.100(a).

Section 2510.120 Hearings

Any person or company required to pay an annual privilege tax pursuant to this Part may request a hearing to be held for the purposes of determining if the assessed tax is appropriate. The hearing request shall be made pursuant to 50 Ill. Adm. Code 2500.50 and shall be based on the grounds set forth in Section 412 of the Code (215 ILCS 5/412), a mistake of fact, an error in calculation or an erroneous interpretation of a statute of this or any other state, and such request will only be granted based on those grounds.

Section 2510 ILLUSTRATION A Calculation of the Annual Privilege Tax

Property and Casualty Insurance Companies		1	2	3
Premium Tax Calculation		Premium	Premium Rate	Premium Tax
1	Property and Casualty Insurance Premiums (Column 1, Line 15 of the Annual Statement, except Lines 13 and 14, and other amounts of premium, including amounts of premium for reinsurance contracts as reported on Lines 15 of the Annual Statement)			
2	DEDUCTIONS			
3	Dividends paid or credited to policyholders on premiums (Column 1, Line 1, Page 1 of the Annual Statement)			
4	NET TAXABLE PROPERTY & CASUALTY PREMIUMS (Column 1, Line 1, Page 1 of the Annual Statement)			
5	PROPERTY & CASUALTY PREMIUM TAX (Column 1, Line 4 of Column 2)		0.05	
6	13.1% (13.6 per Year 2510.50) (Line 15, Column 2, Line 13.1% (13.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 6, Page 1 of the Annual Statement)			
7	DEDUCTIONS			
8	NET TAXABLE PROPERTY & CASUALTY PREMIUMS (Column 1, Line 1, Page 1 of the Annual Statement)			
9	PROPERTY & CASUALTY PREMIUM TAX (Column 1, Line 4 of Column 2)			
10	13.1% (13.6 per Year 2510.50) (Line 15, Column 2, Line 13.1% (13.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 6, Page 1 of the Annual Statement)			
11	Less Credit to the Privilege Tax			
12	FIRE DEPARTMENT TAXES PAID			
13	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
14	Less Credit to the Privilege Tax			
15	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
16	Less Credit to the Privilege Tax			
17	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
18	Less Credit to the Privilege Tax			
19	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
20	Less Credit to the Privilege Tax			
21	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
22	Less Credit to the Privilege Tax			
23	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
24	Less Credit to the Privilege Tax			
25	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
26	Less Credit to the Privilege Tax			
27	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
28	Less Credit to the Privilege Tax			
29	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
30	Less Credit to the Privilege Tax			
31	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
32	Less Credit to the Privilege Tax			
33	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
34	Less Credit to the Privilege Tax			
35	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
36	Less Credit to the Privilege Tax			
37	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
38	Less Credit to the Privilege Tax			
39	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
40	Less Credit to the Privilege Tax			
41	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
42	Less Credit to the Privilege Tax			
43	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
44	Less Credit to the Privilege Tax			
45	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
46	Less Credit to the Privilege Tax			
47	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
48	Less Credit to the Privilege Tax			
49	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
50	Less Credit to the Privilege Tax			
51	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
52	Less Credit to the Privilege Tax			
53	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
54	Less Credit to the Privilege Tax			
55	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
56	Less Credit to the Privilege Tax			
57	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
58	Less Credit to the Privilege Tax			
59	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
60	Less Credit to the Privilege Tax			
61	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
62	Less Credit to the Privilege Tax			
63	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
64	Less Credit to the Privilege Tax			
65	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
66	Less Credit to the Privilege Tax			
67	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
68	Less Credit to the Privilege Tax			
69	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
70	Less Credit to the Privilege Tax			
71	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
72	Less Credit to the Privilege Tax			
73	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
74	Less Credit to the Privilege Tax			
75	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
76	Less Credit to the Privilege Tax			
77	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
78	Less Credit to the Privilege Tax			
79	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
80	Less Credit to the Privilege Tax			
81	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
82	Less Credit to the Privilege Tax			
83	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
84	Less Credit to the Privilege Tax			
85	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
86	Less Credit to the Privilege Tax			
87	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
88	Less Credit to the Privilege Tax			
89	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
90	Less Credit to the Privilege Tax			
91	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
92	Less Credit to the Privilege Tax			
93	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
94	Less Credit to the Privilege Tax			
95	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
96	Less Credit to the Privilege Tax			
97	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
98	Less Credit to the Privilege Tax			
99	11% (11.6 per Year 2510.50) (Line 1, Page 1 of the Annual Statement, Line 11, Page 1 of the Annual Statement)			
100	Less Credit to the Privilege Tax			

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Section 2510 ILLUSTRATION A Calculation of the Annual Privilege Tax

Privilege Tax Calculation		1	2	3
		Premium	Premium Rate	Premium Tax
1	Life Insurance Premiums (Page 21, Column 5, Line 1) per/			
2	REDUCTIONS			
a.	Dividends Paid in Cash			
b.	Dividends Applied to Reduction of Premiums			
c.	Return Premiums			
d.	Total Deductions			
3	NET TAXABLE DIRECT LIFE PREMIUMS (Column 1			
4	Less: Direct Life Premium Tax (Line 3, Column 1 x Column 2)			
5	Accident and Health Premiums (Page 21, Column 2, Line 2)			
6	Less: Line 21 (1 per Annual Statement) (July 1 thru December			
7	NET TAXABLE ACCIDENT AND HEALTH PREMIUMS			
8	Less: Accident and Health Premium Tax (Line 7, Column 1			
9	Less: Line 22 (1 per Annual Statement) (July 1 thru Dec. 31, 1998)			
10	NET PREMIUM TAX BEFORE CREDITS (Column 3, Line 4 plus			
11	Less Credits to the Privilege Tax			
12	CORPORATE & REPLACEMENT INCOME TAX			
13	INTERGRADATION EXCESS			
14	Less: Line 10 thru 11 (4 Corporate and Replacement			
15	Less: Line 12 thru 13 (15% Net Taxable Income) (Line 10 plus Line 11) (Schedule U-1)			
16	Less: Line 14 (1.5%)			
17	Less: Line 15 (1.5%)			
18	Less: Line 16 (1.5%)			
19	Less: Line 17 (1.5%)			
20	Less: Line 18 (1.5%)			
21	Less: Line 19 (1.5%)			
22	Less: Line 20 (1.5%)			
23	Less: Line 21 (1.5%)			
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25	Less: Line 23 (1.5%)			
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28	Less: Line 26 (1.5%)			
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183	Less: Line 181 (1.5%)			
184	Less: Line 182 (1.5%)			
185	Less: Line 183 (1.5%)			
186	Less: Line 184 (1.5%)			
187	Less: Line 185 (1.5%)			
188	Less: Line 186 (1.5%)			
189	Less: Line 187 (1.5%)			
190	Less: Line 188 (1.5%)			
191	Less: Line 189 (1.5%)			
192	Less: Line 190 (1.5%)			
193	Less: Line 191 (1.5%)			
194	Less: Line 192 (1.5%)			
195	Less: Line 193 (1.5%)			
196	Less: Line 194 (1.5%)			
197	Less: Line 195 (1.5%)			
198	Less: Line 196 (1.5%)			
199	Less: Line 197 (1.5%)			
200	Less: Line 198 (1.5%)			
201	Less: Line 199 (1.5%)			
202	Less: Line 200 (1.5%)			
203	Less: Line 201 (1.5%)			
204	Less: Line 202 (1.5%)			
205	Less: Line 203 (1.5%)			
206	Less: Line 204 (1.5%)			
207	Less: Line 205 (1.5%)			
208	Less: Line 206 (1.5%)			
209	Less: Line 207 (1.5%)			
210	Less: Line 208 (1.5%)			
211	Less: Line 209 (1.5%)			
212	Less: Line 210 (1.5%)			
213	Less: Line 211 (1.5%)			
214	Less: Line 212 (1.5%)			
215	Less: Line 213 (1.5%)			
216	Less: Line 214 (1.5%)			
217	Less: Line 215 (1.5%)			
218	Less: Line 216 (1.5%)			
219	Less: Line 217 (1.5%)			
220	Less: Line 218 (1.5%)			
221	Less: Line 219 (1.5%)			
222	Less: Line 220 (1.5%)			
223	Less: Line 221 (1.5%)			
224	Less: Line 222 (1.5%)			
225	Less: Line 223 (1.5%)			
226	Less: Line 224 (1.5%)			
227	Less: Line 225 (1.5%)			
228	Less: Line 226 (1.5%)			
229	Less: Line 227 (1.5%)			
230	Less: Line 228 (1.5%)			
231	Less: Line 229 (1.5%)			
232	Less: Line 230 (1.5%)			
233	Less: Line 231 (1.5%)			
234	Less: Line 232 (1.5%)			
235	Less: Line 233 (1.5%)			
236	Less: Line 234 (1.5%)			
237	Less: Line 235 (1.5%)			
238	Less: Line 236 (1.5%)			
239	Less: Line 237 (1.5%)			
240	Less: Line 238 (1.5%)			
241	Less: Line 239 (1.5%)			
242	Less: Line 240 (1.5%)			
243	Less: Line 241 (1.5%)			
244	Less: Line 242 (1.5%)			
245	Less: Line 243 (1.5%)			
246	Less: Line 244 (1.5%)			
247	Less: Line 245 (1.5%)			
248	Less: Line 246 (1.5%)			
249	Less: Line 247 (1.5%)			
250	Less: Line 248 (1.5%)			
251	Less: Line 249 (1.5%)			
252	Less: Line 250 (1.5%)			
253	Less: Line 251 (1.5%)			
254	Less: Line 252 (1.5%)			
255	Less: Line 253 (1.5%)			
256	Less: Line 254 (1.5%)			
257	Less: Line 255 (1.5%)			
258	Less: Line 256 (1.5%)			
259	Less: Line 257 (1.5%)			
260	Less: Line 258 (1.5%)			
261	Less: Line 259 (1.5%)			
262	Less: Line 260 (1.5%)			
263	Less: Line 261 (1.5%)			
264	Less: Line 262 (1.5%)			
265	Less: Line 263 (1.5%)			
266	Less: Line 264 (1.5%)			
267	Less: Line 265 (1.5%)			
268	Less: Line 266 (1.5%)			
269	Less: Line 267 (1.5%)			
270	Less: Line 268 (1.5%)			
271	Less: Line 269 (1.5%)			
272	Less: Line 270 (1.5%)			
273	Less: Line 271 (1.5%)			
274	Less: Line 272 (1.5%)			
275	Less: Line 273 (1.5%)			
276	Less: Line 274 (1.5%)			
277	Less: Line 275 (1.5%)			
278	Less: Line 276 (1.5%)			
279	Less: Line 277 (1.5%)			
280	Less: Line 278 (1.5%)			
281	Less: Line 279 (1.5%)			

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

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Section 2510 ILLUSTRATION B Unitary Group Allocation Calculation

Income Tax Offset Based on Unitary Method of Corporate and Replacement Tax							
Allocated by each Company's Illinois Premium Written (including annuities)							
to the Unitary Group's Total Illinois Premium Written (Schedule U-1)							
Identity		Payment			Refund		
1	2	3	4	5	6	7	
Company Name of Each Unitary Member	Company FEIN	Illinois Direct Premium	Percentage Allocation	Tax Offset Allocated by Percentage	Refund Allocation by %	Allowed	
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15	Column Totals						

Taxes Paid By (Name of Company and the FEIN of Taxpayer) _____

Total Taxes Paid _____

Total Refund Issued _____

Net Available for Offset _____

(This amount will be verified per the Department of Revenue records.)

Procedure to Determine the Income Tax Offset on the Unitary Method

We will use Schedule U-1 to determine the income tax offset for companies using the Unitary Method. The allocation of the total income tax paid will be based on the Illinois premium written (including annuities) for each company. The refund will be allocated among the individual companies. If a member of the unitary group received a refund during the calendar year, the refund must also be allocated among the individual companies. If a member of the unitary group received a refund during the calendar year, the refund must be allocated among all members of the unitary group. Only the net amount is allowed to be allocated. Corporate income taxes in the calculation of the refund must not be included. Schedule U-1 will not be allowed to use the Illinois Corporate and Replacement income taxes in the calculation of the privilege and retaliatory taxes.

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

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Section 2510 ILLUSTRATION C Annual Privilege and Retaliatory Tax Return



State of Illinois

1998 Privilege and Retaliatory Tax Statement for Property and Casualty Insurers

Business during the Calendar Year 1998

Due: March 15, 1999

Illinois Department of Insurance

320 W. Washington Street

Springfield, IL 62762-4001

Federal Employer Identification Number _____	NAIC _____
Name of Insured Company _____	
with principal office located at _____	as required by and in
incorporated under the laws of the State of _____	accordance with "215 ILCS 5/410" of the Illinois Compiled Statutes
Mailing address, if other than principal office location shown above _____	
Contact person _____	Phone () _____

Instructions

Important Notice: The FEIN must be on this statement to ensure proper posting to your company account.

- The Privilege and Retaliatory Tax Statement must be filed and the taxes due must be paid on or before March 15, 1999. The official filing date is the U.S. Postal date.
- Separate checks and statement is requested for each company of an insurance group.
- The Department of Insurance cannot issue cash refunds of overpayments. Overpayments should be applied to all future privilege and retaliatory tax liabilities only.
- No authority exists for granting any extension of time for filing or payment.
- The payment received will be subject to audit and subsequent adjustments if necessary.
- Any penalties to be levied will be assessed as provided by "215 ILCS 5/412" Illinois Compiled Statutes.
- File only one original notarized copy. The Illinois Department of Insurance will not accept computerized, fax or any facsimile tax statements. Companies must use the prescribed form furnished by the Department. Failure to do so will subject your company to penalties per "215 ILCS 5/412" of the Illinois Compiled Statutes.
- Remittance should be made payable to the Director of Insurance and mailed with the completed tax statement to attention Tax and Fiscal Services Section, Illinois Department of Insurance, 320 West Washington Street, Springfield, Illinois 62767-0001.

Do not mail checks or forms with the Annual Statement

Important Notice: Disclosure of this information is required under the Illinois Compiled Statutes, Insurance Law. Failure to provide this information will result in a fine. This form has been approved by the Forms Management Center.

ILLINOIS REGISTER

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

NAIC Group Code _____		NAIC Company Code _____		Direct Business in the State of Illinois During the Year 1998 Property & Casualty Insurance	
Line of Business	NAIC Description of Business	Group Premiums, including Policy and Membership Fees, Less Return Premiums and Provisions for Unearned Premiums	Direct Premiums	Direct	Indirect
1	Fire				
2	Marine				
3	Automobile				
4	Commercial				
5	Commercial				
6	Commercial				
7	Commercial				
8	Commercial				
9	Commercial				
10	Commercial				
11	Commercial				
12	Commercial				
13	Commercial				
14	Commercial				
15	Commercial				
16	Commercial				
17	Commercial				
18	Commercial				
19	Commercial				
20	Commercial				
21	Commercial				
22	Commercial				
23	Commercial				
24	Commercial				
25	Commercial				
26	Commercial				
27	Commercial				
28	Commercial				
29	Commercial				
30	Commercial				
31	Commercial				
32	Commercial				

32. Finance and service charges not included in lines 1 to 32 is _____

Amounts Must Agree to Direct Business Page of Company's Annual Statement.

Computation of Retaliatory Taxes

Under *21.15 ILCS 5/444 and 5/444.1, of the Illinois Compiled Statutes, when the laws of any other state require of companies domiciled in Illinois the payment of penalties, fees, charges or taxes greater than those required in the aggregate for like purposes under the laws of Illinois by companies domiciled in such states, the Director of Insurance is required to impose comparable requirements on a retaliatory basis. All insurance related taxes and fees, including premium taxes, based on the State of Incorporation requirements, should be calculated below with the total carried forward to Page 6, Line 2 under Column 2.

Retaliatory Tax Calculation		Column 1 State of Illinois Basis	Column 2 State of Incorporation Basis
1	Annual Statement Filing Fee	\$100.00	
2	Certificate of Authority Fee	\$100.00	
3	Fire Marshal Tax		
4	Fire Department Tax (proof of payment must be attached)		
5	Financial Regulation Fee		
6	Policy Form Filing Fee		
*7a	Illinois Corporate & Replacement Income Taxes Paid	XXXXXXXXXXXX	
7b	Illinois Life & Health Guaranty Fund Credit (per Association's official notice)	XXXXXXXXXXXX	
7c	Other State of Illinois Taxes and Fees per Article XXV	XXXXXXXXXXXX	
7d	Other State of Incorporation Taxes and Fees	XXXXXXXXXXXX	
7e	State of Incorporation income tax paid without reduction, if any is otherwise allowed, for a similar association on the date of the Illinois Corporate & Health Guaranty Association per Section 22-15.50(2)(5).	XXXXXXXXXXXX	
8	Private Premium Tax, Franchise Tax, etc		
9	Total Illinois Basis	XXXXXXXXXXXX	
10	Total State of Incorporation Basis	XXXXXXXXXXXX	
11	Total Retaliatory Tax Due (Line 10 minus Line 9 balance cannot be less than -0-)	XXXXXXXXXXXX	

*If Illinois Corporate and Replacement income taxes are paid on a unitary method, please complete Schedule U-1 in detail. Proof of Payment (cancelled checks and IL1120) must be attached to verify basis.

Income Tax Offset Based on Unitary Method of Corporate and Replacement Tax
Allocated by each Company's Illinois Premium Written (including annuities)
to the Unitary Group's Total Illinois Premium Written (Schedule U-1)

Identity		Payment			Refund		Results
1	2	3	4	5	6	7	
Company Name of Each Unitary Member	Company FEIN	Illinois Direct premium	Percentage Allocation	Tax Offset Allocated by Percentage	Refund Offset Allocation by %	Allowed	
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15	Column Totals						

Taxes Paid By (Name of Company and the FEIN of Taxpayer) _____

Total Taxes Paid _____
Total Refund Issued _____
Not Available for Offset _____
(This amount will be verified per the Department of Revenue records.)

Procedure to Determine the Income Tax Offset on the Unitary Method

When U-1 Schedule U-1 is determined the income tax offset for companies using the Unitary Method. The allocation of the total income tax paid will be based on the Illinois premium written (including annuities) by each individual company as a percent of the Unitary group total. This allocation is multiplied to the unitary calendar year amount paid and the result is the available income tax offset for that individual company. If the unitary group received a refund during the calendar year, the refund must be allocated to each company based on the percentage of the net amount is allowed. If the unitary group received a refund during the calendar year, the refund must be allocated among all members of the unitary group. Only the net amount is allowed. Each unitary group must complete Schedule U-1 to be allowed the offset. Any unitary group that does not complete Schedule U-1 will not be allowed to add the Illinois Corporate and Replacement income taxes in the calculation of the privilege and regulatory taxes.

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

Section 2510 ILLUSTRATION C Annual Privilege and Retaliatory Tax Return



State of Illinois

1998 Privilege and Retaliatory Tax Statement for Life and Accident and Health Companies
Business during the Calendar Year 1998

Illinois Department of Insurance
320 W. Washington Street
Springfield, IL 62767-0001

Due: March 15, 1999

Column 1	Column 2
Payment Summary	
1. Amount due as Privilege Tax (Line 19, Page 3)	
2. Amount due as Retaliatory Tax (Line 11, Page 4)	
3. Total Privilege and Retaliatory Tax (Line 1 Plus 2)	
4. Less Privilege Tax Estimated Installments	
4a. June 15, 1998	
4b. September 15, 1998	
4c. December 15, 1998	
4d. Total (Add 4a thru 4c)	
5. Less Retaliatory Tax Quarterly Estimates	
5a. April 15, 1998	
5b. June 15, 1998	
5c. September 15, 1998	
5d. December 15, 1998	
5e. Total (Add 5a thru 5d)	
6. Total Estimated Payments (Lines 4e plus 5e)	
7. Less: Prior Year End Overpayment (as reported on prior year tax return)	
8. Total Credits (Line 6 plus line 7)	
9. Balance Due (Line 3 less line 8)	
*10. Failure to file tax return penalty (\$200 per month or 5% of balance due, whichever is greater)	
*11. Failure to pay tax penalty (5% of tax due)	
*12. Interest on the tax paid after due date per IRS rate, minimum 12%	
13. Total remittance with tax return (sum of Lines 9, 10, 11 and 12)	
*14. Tax Overpayment (if Line 8 is greater than Line 9)	
*Calculate per "215 ILCS 5/412" of the Illinois Compiled Statutes.	
*All overpayments must be applied to future privilege or retaliatory tax liabilities only.	
Name _____ (Signature of Corporate Officer)	Title _____ of the _____ (Company)
I declare under penalties of perjury that the foregoing Statement (including the accompanying schedules) has been examined by him, and to the best of his knowledge and belief it is true, correct and complete.	
Date _____	

Federal Employer Identification Number _____ NAIC _____	
Name of Insurance Company _____	
with principal office located at _____ State _____ Zip Code _____	
incorporated under the laws of the State of _____ as required by and in accordance with "215 ILCS 5/410" of the Illinois Compiled Statutes	
Mailing address, (if other than principal office location shown above) _____	
Contact person _____ Phone (_____) _____	
Instructions	
<p>Important Notice: The FEIN must be on this statement to ensure proper posting to your company account.</p> <p>1. The Privilege and Retaliatory Tax Statement must be filed and the taxes due must be paid on or before March 15, 1999. The official filing date is the U.S. Postal date.</p> <p>2. Separate checks and statement is requested for each company of an insurance group.</p> <p>3. The Department of Insurance cannot issue cash refunds or overpayments. Overpayments should be applied to all future privilege and retaliatory tax liabilities only.</p> <p>4. No authority exists for granting any extension of time for filing or payment.</p> <p>5. The payment received will be subject to audit and subsequent adjustments if necessary.</p> <p>6. Any penalties to be levied will be assessed as provided by "215 ILCS 5/412" Illinois Compiled Statutes.</p> <p>7. File only one original notarized copy. The Illinois Department of Insurance will not accept computerized, fax or any facsimile tax statements. Companies must use the prescribed form furnished by the Department. Failure to do so will subject your company to penalties per "215 ILCS 5/412" of the Illinois Compiled Statutes.</p> <p>8. Remittance should be made payable to the Director of Insurance and mailed with the completed tax statement to attention: Tax and Fiscal Services Section, Illinois Department of Insurance, 320 West Washington Street, Springfield, Illinois 62767-0001.</p>	
Do not mail checks or forms with the Annual Statement	
<p>Important Notice: Disclosure of this information is required under the Illinois Compiled Statutes Insurance Laws. Failure to provide this information will result in a fine. This form has been approved by the Forms Management Center.</p>	

NAIC Group Code _____					
NAIC Company Code _____					
Direct Business in the State of Illinois During the Year 1998					
Life Insurance					
1	2	3	4	5	6
	Direct Premiums and Annuity Considerations	Ordinary	Group	Individual	Total
1. Life Insurance					
2. Annuity Considerations					
3. Deposit-type funds					
4. Totals (sum of Lines 1 to 3)					
Direct Dividends to Policyholders					
Life Insurance					
5.1. Paid in cash or put on deposit					
5.2. Applied to pay renewal premiums					
5.3. Applied to provide paid-up additions or loans					
5.4. Other (specify in premium schedule item)					
5.5. Totals (sum of Lines 5.1 to 5.4)					
Annuities					
6.1. Paid in cash or put on deposit					
6.2. Applied to provide paid-up annuities					
6.3. Other					
6.4. Totals (sum of Lines 6.1 to 6.3)					
7. Grand Totals (Lines 5.5 plus 6.4)					
Accident and Health Insurance					
8	Direct Premiums	Direct Dividends Paid (Net of Premiums)	Direct Dividends Received	Direct Dividends Reclassified	Direct Losses Incurred
8.1. Group Policies					
8.2. Federal Employees Health Benefits Program Premium					
8.3. Credit Groups and Individuals					
8.4. Cooperative Renewable Policies					
8.5. All other					
9.1. Non-qualifying					
9.2. Qualifying Renewable					
9.3. Other (specify in related reports, etc.)					
9.4. Other (specify in related reports, etc.)					
9.5. All other					
9.6. Totals (sum of 9.1 to 9.5)					
10. Totals (Lines 8 + 9.6)					

Amounts Must Agree to Direct Business Page of Company's Annual Statement.

Life and Accident and Health Insurance Companies			
1	2	3	
Premium	Premium Rate	Premium Tax	
Privilege Tax Calculation			
1. Life Insurance Premiums (Page 21, Column 6, Line 1 per Annual Statement)			
2. DEDUCTIONS			
a. Dividends Paid in Cash			
b. Dividends Applied in Reduction of Premiums			
c. Return Premiums			
d. Total Deductions			
3. NET TAXABLE DIRECT LIFE PREMIUMS (Column 1 minus Line 2)			
4. NET DIRECT LIFE PREMIUM TAX (Line 3, Column 1 x Column 2)			
5. Accident and Health Premiums (Page 21, Column 2, Line 25 minus Line 23 per Annual Statement) (July 1 thru December 31, 1998)			
6. DEDUCTIONS			
a. Dividends Paid in Cash or Credited to Policyholders on Premiums reported on Line 5 (July 1 thru Dec. 31, 1998)			
7. NET TAXABLE ACCIDENT AND HEALTH PREMIUMS (Column 1, Line 5 minus Line 6) (July 1 thru Dec. 31, 1998)			
8. Accident and Health Premium Tax (Line 7, Column 1 times Line 8)			
9. Net Premium Tax Before Credits (Column 3, Line 4 plus Column 3, Line 8)			
Least Credits to the Privilege Tax			
CORPORATE & REPLACEMENT INCOME TAX			
INTERGRADATION EXCESS			
Complete Lines 10 thru 11 if Corporate and Replacement Income Tax is paid on the basis of the Uniform Method and on a Uniform Method, go to U-1 Schedule and complete as directed			
10. ILLINOIS CORPORATE INCOME TAX PAYMENTS			
10a. 1997 Final Payment			
10b. 1998 Quarterly Payments			
10c. Other Payments (attach Schedule, Year 1998)			
10d. Less: State Income Tax Cash Refunds Received			
10e. TOTAL			
11. ILLINOIS PERSONAL PROPERTY REPLACEMENT CORPORATE INCOME TAX PAYMENTS			
11a. 1997 Final Payment			
11b. 1998 Quarterly Payments			
11c. Other Payments (attach Schedule, Year 1998)			
11d. Less: Replacement State Income Tax Cash Refunds Received			
11e. TOTAL			
12. TOTAL NET INCOME TAXES (10e plus 11e)			
13. Uniform Member Income Tax Other (Schedule U-1)			
14. Total Life Insurance Premium & Accident and Health Insurance Premiums (Page 21, Column 2, Line 25 plus Line 13)			
15. Intergradation Credit as a basis of 1.5% Net Taxable Premium (Line 14 x 1.5%)			
16. Intergradation Credit Amount (Line 12 or 13 minus Line 15)			
17. NET PREMIUM TAX (Line 9 minus Line 16) (cannot be less than zero)			

Computation of Retailatory Taxes		
Under *215 ILCS 5.444 and 5.444.1* of the Illinois Compiled Statutes, when the laws of any other state require of companies domiciled in Illinois the payment of penalties, fees, charges or taxes greater than those required in the aggregate for like purposes under the laws of Illinois by comparable companies, then those companies shall be deemed to be subject to the laws of Illinois for computation of retailatory taxes. All insurance required in the aggregate for like purposes under the laws of Illinois by comparable companies shall be deemed to be subject to the laws of Illinois for computation of retailatory taxes. All insurance required in the aggregate for like purposes under the laws of Illinois by comparable companies shall be deemed to be subject to the laws of Illinois for computation of retailatory taxes. All insurance related taxes and fees, including premium charges, shall be based on the State of Incorporation requirements, should be calculated below with the total carried forward to Page 6, Line 2 under Column 2.		
	Column 1 State of Illinois Basis	Column 2 State of Incorporation Basis
Retailatory Tax Calculation		
1 Annual Statement Filing Fee	\$100.00	
2 Certificate of Authority Fee	\$100.00	
3 Fire Marshal Tax		
4 Fire Department Tax (proof of payment must be attached)		
5 Financial Regulation Fee		
6 Policy Form Filing Fee		
*7a Illinois Corporate & Replacement Income Taxes Paid		XXXXXXXXXXXX
7b Illinois Life & Health Guaranty Fund Credit (per Association's Group Notice)		XXXXXXXXXXXX
7c Other State of Illinois Taxes and Fees per Article XXV		XXXXXXXXXXXX
7d Other State of Incorporation Taxes and Fees	XXXXXXXXXXXX	
7e State of Incorporation income tax paid without reduction, if any, is otherwise allowed for a similar association offset as provided in Section 20.15.501(c).	XXXXXXXXXXXX	
8 Privilege Premium Tax, Franchise Tax, etc.		XXXXXXXXXXXX
9 Total Illinois Basis	XXXXXXXXXXXX	
10 Total State of Incorporation Basis		XXXXXXXXXXXX
11 Total Retailatory Tax Due (Line 10 minus Line 9, balance cannot be less than -0-)		XXXXXXXXXXXX

*If Illinois Corporate and Replacement income taxes are paid on a unitary method, please complete Schedule U-1 in detail. Proof of Payment (cancelled checks and IL1120) must be attached to verify basis.

Income Tax Offset Based on Unitary Method of Corporate and Replacement Tax Allocated by each Company's Illinois Premium Written (including annuities) to the Unitary Group's Total Illinois Premium Written (Schedule U-1)						
1	2	3	4	5	6	7
Company Name of Each Unitary Member	Company FEIN	Illinois Direct Premium	Percentage Allocation	Tax Offset Allocated by Percentage	Tax Offset Allocated by %	Results
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15	Column Totals					

Taxes Paid By (Name of Company and the FEIN of Taxpayer) _____

Total Taxes Paid _____

Total Refund Issued _____

Net Available for Offset _____
(This amount will be verified per the Department of Revenue records.)

Procedure to Determine the Income Tax Offset on the Unitary Method
 Herein sets forth the procedure to determine the income tax offset for companies using the Unitary Method. The allocation of the total income tax paid will be based on the Illinois premium written (including annuities) by each individual company as a percent of the Unitary group total. This allocation is multiplied to the unitary calendar year amount paid and the result is the available income tax offset for that individual company. If a member of the unitary group received a refund during the calendar year, the refund must be allocated among all members of the unitary group. Only the net amount is allowed.
 Each unitary group must complete Schedule U-1 to be allowed the offset. Any unitary group that does not complete Schedule U-1 will not be allowed to use the Illinois Corporate and Replacement Income Taxes in the calculation of the privilege and guaranty taxes.

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

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Payment Summary	Column 1	Column 2
1. Amount due as Privilege Tax (Line 17, Page 3)		
2. Amount due as Regulatory Tax (Line 11, Page 4)		
3. Total Privilege and Regulatory Tax (Line 1 plus 2)		
4. Less Privilege Tax Estimated Installments		
4a. April 15, 1998	XXXXXXXXXXXXXXX	
4b. June 15, 1998		
4c. September 15, 1998		
4d. December 15, 1998		
4e. Total (Add 4a thru 4d)		
5. Less Regulatory Tax Quarterly Estimates		
5a. April 15, 1998		
5b. June 15, 1998		
5c. September 15, 1998		
5d. December 15, 1998		
5e. Total (Add 5a thru 5d)		
6. Total Estimated Payments (Lines 4e plus 5e)		
7. Less Prior Year End Overpayment		
8. Total Credits (Line 6 plus line 7)		
9. Balance Due (Line 3 less Line 8)		
*10. Failure to file tax return penalty (\$200 per month or 5% of tax, whichever is greater)		
*11. Failure to pay tax penalty (5% of tax due)		
*12. Interest on the tax paid after due date per IRS rate, minimum 12%		
13. Total remittance with tax return (sum of Lines 9, 10, 11 and 12)		
*14. Tax Overpayment (If Line 8 is greater than Line 9)		

*Calculate per "215 ILCS 5/412" of the Illinois Compiled Statutes.

**All overpayments must be applied to future privilege or regulatory tax liabilities only

Name _____ Title _____ of the _____
 (Signature of Corporate Officer) (Company)

declares under penalties of perjury that the foregoing Statement (including the accompanying schedules) has been examined by him, and to the best of his knowledge and belief is true, correct and complete

Date _____

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

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Section 2510. ILLUSTRATION C Annual Privilege and Regulatory Tax Return

Illinois Department of Insurance
 320 West Washington Street
 Springfield, IL 62767-0001



State of Illinois
 1998 Privilege and Regulatory Tax Statement for Health Maintenance Organizations, Limited Health Service Organizations, Voluntary Health Service Plans and Dental Service Plans
 Business during the Calendar Year 1998
 Due: March 15, 1999

Federal Employer Identification Number _____ NAIC _____

Name of Insurance Company _____

with principal office located at _____ Name and Address _____ City _____ State _____ Zip Code _____

incorporated under the laws of the State of _____ as required by and in accordance with "215 ILCS 5/410" of the Illinois Compiled Statutes

Mailing address, if other than principal office location shown above _____

Contact person _____ Phone () _____

Instructions

Important Notice: The FEIN must be on this statement to ensure proper posting to your company account

1. The Privilege and Regulatory Tax Statement must be filed and the taxes due must be paid on or before March 15, 1999. The critical filing date is the U.S. Postal date.

2. Separate checks and statement is requested for each company of an insurance group

3. The Department of Insurance cannot issue cash refunds of overpayments. Overpayments should be applied to all future privilege and regulatory tax liabilities only

4. No authority exists for granting any extension of time for filing or payment

5. The payment received will be subject to audit and subsequent adjustments if necessary

6. Any penalties to be levied will be assessed as provided by "215 ILCS 5/412", Illinois Compiled Statutes

7. For only one company registered with the Illinois Department of Insurance will not accept computerized, fax or any machine tax statements. Companies must use the prescribed form furnished by the Department. Failure to do so will subject your company to penalties per "215 ILCS 5/412" of the Illinois Compiled Statutes

8. Remittance should be made payable to the Director of Insurance and mailed with the completed tax statement to attention: Tax and Fiscal Services, Section Illinois Department of Insurance, 320 West Washington Street, Springfield, Illinois 62767-0001

Do not mail checks or forms with the Annual Statement

Important Notice: Companies who, as preparers, prepared under the Illinois Compiled Statutes' Insurance Laws. Failure to provide this information will result in a fine. This form has been approved by the Forms Management Center.

LHA-01/38-98

Insurance Tax Return Form

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

Only Complete the Part Applicable to Your License.

Type of Organization or Plan	Premium
Health Maintenance Organizations	
Premium Effective January 1, 1990: Net taxable premium per Schedule T or the Annual Statement Page 60, Line 14, Columns 4 and 5	
Limited Health Service Organizations	
Net taxable premium per Schedule T or the Annual Statement Page 56, Line 14, Columns 4 and 5	
Voluntary Health Service Plans	
Net taxable premium per Schedule T or the Annual Statement Page 56, Line 14, Columns 4 and 5	
Dental Service Plans	
Net taxable premium per the Annual Statement Page 7, Line 4, Column 1	

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Privilege Tax Calculation	1 Premium	2 Premium Rate	3 Premium Tax
1. DEDUCTIONS			
2. NET PREMIUM TAX (Column 1, Line 1 + Column 2)		004	
LESS CREDITS IS THE PRIVILEGE TAX			
CORPORATE PROPERTY REPLACEMENT INCOME TAX (Integrations Other is excess of 1.5% Net Taxable Income Lines 3 thru 4 if Corporate and Replacement Income Taxes are not paid on a Unitary Method. If paid on a Unitary Method, go to Line 5 Schedule and complete tax payments.)			
3. ILLINOIS CORPORATE INCOME TAX PAYMENTS			
3a. 1987 Total Quarterly Payments			
3b. 1988 Total Quarterly Payments			
3c. Other Payments paid during Calendar Year 1988			
3d. Less: State income Tax Cash Refunds Received			
3e. TOTAL			
4. ILLINOIS PERSONAL PROPERTY REPLACEMENT CORPORATE INCOME TAX PAYMENTS			
4a. 1987 Final Payment			
4b. 1988 Total Quarterly Payments			
4c. Other Payments paid during Calendar Year 1988			
4d. Less: State income Tax Cash Refunds Received			
4e. TOTAL			
5. TOTAL NET INCOME TAXES (Lines 3e + 4e, Column 1)			
6. Unitary Method Income Tax (Other Schedule U-1)			
7. Integration Other is excess of 1.5% Net Taxable Premium (Line 1, Column 1 + 1.5%)			
8. Integration Other Amount (Line 5 or 6 minus Line 7 + negative, enter -00-)			
9. NET PREMIUM TAX (Line 2, Column 3 minus Line 8)			

Computation of Retaliatory Taxes

Under 215 ILCS 5/444 and 5/444.1 of the Illinois Compiled Statutes, when the laws of any other state require of companies domiciled in Illinois the payment of penalties, fees, charges or taxes greater than those required in the aggregate for like purposes under the laws of Illinois by companies domiciled in such states, the Director of Insurance is required to impose comparable requirements on a retaliatory basis. All insurance related taxes and fees, including premium taxes, based on the State of Incorporation requirements, should be calculated below with the total carried forward to Page 6, Line 2 under Column 2.

Retaliatory Tax Calculation	Column 1 State of Illinois Basis	Column 2 Insurance Basis
1. Annual Statement Filing Fee	\$100.00	
2. Certificate of Authority Fee	\$100.00	
3. Fire Marshal Tax		
4. Fire Department Tax (proof of payment must be attached)		
5. Financial Regulation Fee		
6. Policy Form Filing Fee		
*7a. Illinois Corporate & Replacement Income Taxes Paid		XXXXXXXXXXXX
7b. Illinois Life & Health Guaranty Fund Credit (per Association's official request)		XXXXXXXXXXXX
7c. Other State of Illinois Taxes and Fees per Article XXV		XXXXXXXXXXXX
7d. Other State of Incorporation Taxes and Fees		XXXXXXXXXXXX
7e. State of Incorporation income tax paid without reduction if the State of Incorporation has a law that requires that the Illinois Life and Health Guaranty Association per Section 221.5-50(c)(15).		XXXXXXXXXXXX
8. Privilege Premium Tax, Franchise Tax, etc		
9. Total Illinois Basis		XXXXXXXXXXXX
10. Total State of Incorporation Basis		XXXXXXXXXXXX
11. Total Retaliatory Tax Due (Line 10 minus Line 9 balance cannot be less than -0-)		XXXXXXXXXXXX

*If Illinois Corporate and Replacement income taxes are paid on a unitary method, please complete Schedule U-1 in detail. Proof of Payment (enclosed checks and IL-1120) must be attached to verify basis.

Income Tax Offset Based on Unitary Method of Corporate and Replacement Tax
Allocated by each Company's Illinois Premium Written (including annuities)
to the Unitary Group's Total Illinois Premium Written (Schedule U-1)

1	2	Payment			Refund		7
		3	4	5	6		
Company Name of Each Unitary Member	Company FEIN	Illinois Direct Premium	Percentage Allocation	Tax Offset Percentage	Refund Offset Allocation by %	Results Allowed	
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
Column Totals							

Taxes Paid By (Name of Company and the FEIN of Taxpayer)

Total Taxes Paid _____
Total Refund Issued _____
Net Available for Offset _____
(This amount will be verified per the Department of Revenue records.)

Procedure to Determine the Income Tax Offset on the Unitary Method

We will use Schedule U-1 to determine the income tax offset to companies using the Unitary Method. The allocation of the total income tax paid will be based on the Illinois premium written (including annuities) by each individual company as a percent of the Unitary group total. This allocation is multiplied to the unitary calendar year amount paid and the result is the refund amount. The refund must also be allocated among the individual companies. If a member of the unitary group received a refund during the calendar year, the refund must be allocated among all members of the unitary group. Only the net amount is allowed.

Each unitary group must complete Schedule U-1 to be shown to the effect. Any unitary group that does not complete Schedule U-1 will not be allowed to deduct the Illinois Corporate and Replacement income taxes in the calculation of the privilege and retaliatory taxes.

ILLINOIS REGISTER
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Section 2510 ILLUSTRATION C Quarterly Tax Statement

Payment Summary	Column 1	Column 2
1. Amount due as Privilege Tax (Line 9, Page 3)		
2. Amount due as Retaliatory Tax (Line 11, Page 4)		
3. Total Privilege and Retaliatory Tax (Line 4 plus 2)		
4. Less Privilege Tax Estimated Installments		
4a. April 15, 1998	XXXXXXXXXXXXXXX	
4b. July 15, 1998		
4c. September 15, 1998		
4d. December 15, 1998		
4e. Total (Add 4a thru 4d)		
5. Less Retaliatory Tax Quarterly Estimates		
5a. April 15, 1998		
5b. June 15, 1998		
5c. September 15, 1998		
5d. December 15, 1998		
5e. Total (Add 5a thru 5d)		
6. Total Estimated Payments (Lines 4e plus 5e)		
7. Less: Prior Year End Overpayment (as reported on prior year tax return)		
8. Total Credits (Line 6 plus line 7)		
9. Balance Due (Line 3 less Line 8)		
*10. Return to file tax return penalty (\$200 per month or 5% of tax which ever is greater)		
*11. Failure to pay tax penalty (5% of tax due)		
*12. Interest on the tax paid after due date per IRS (at minimum 12%)		
13. Total remittance with tax return (sum of Lines 9, 10, 11 and 12)		
*14. Tax Overpayment (if Line 8 is greater than 9)		

*Calculate per "215 ILCS 5/412" of the Illinois Compiled Statutes.

*All overpayments must be applied to future privilege or retaliatory tax liabilities only.

Name _____ Title _____ of the _____ (Company)
(Signature of Corporate Officer)

Date _____

I declare under penalties of perjury that the foregoing Statement (including the accompanying schedules) has been examined by him and to the best of his knowledge and belief is true, correct and complete.



State of Illinois
Privilege and Retaliatory Tax Installment
All companies whose annual tax for the preceding calendar year was less than \$5,000 need not file this installment.

Federal Employer Identification Number: _____	1998 Calendar Year: _____
By the _____ Insurance Company	<input type="checkbox"/> Indicates which filing
of _____ State _____	<input type="checkbox"/> June 15, 1999
C/S: _____	<input type="checkbox"/> September 15, 1999
	<input type="checkbox"/> December 15, 1999

Privilege Tax

PART A-BASED ON PRIOR YEAR TOTAL TAX

- 1998 Privilege Tax from Page 6, Line 1 of Privilege and Retaliatory Tax Statement \$ _____
- Installment amount due is 1/4 of Line 1 \$ _____

PART B-BASED ON CURRENT CALENDAR YEAR

- 1999 Estimated Privilege Tax on taxable premiums \$ _____
- Less: Estimated Fair Department Taxes to be paid in 1999 if applicable \$ _____
- Net Privilege Tax for 1999 (Line 3 minus sum of 3a and 3b) \$ _____
- Estimated (reapportion) 1999 access income Tax Offset if applicable \$ _____
- 80% of Line 4 to be paid in 1999 \$ _____
- Installment amount due is 1/4 of Line 5 \$ _____

Retaliatory Tax

PART A-BASED ON PRIOR YEAR TOTAL TAX

- 1998 Retaliatory Tax from Page 6, Line 2 of Privilege and Retaliatory Statement \$ _____
- Installment amount due is 1/4 of Line 7 \$ _____

PART B-BASED ON CURRENT CALENDAR YEAR

- 80% of 1999 Estimated Retaliatory Tax \$ _____
- Installment amount due is 1/4 of Line 9 \$ _____

Payment

- Amount due as a Privilege Tax from Line 2 of Line 6 \$ _____
- Amount due as a Retaliatory Tax enter Line 8 or Line 10 \$ _____
- Amount due this installment Line 11 plus Line 12 \$ _____
- Less: Previous Privilege or Retaliatory Tax overpayment (Amount may not be more than Line 13) \$ _____
- Amount of tax payment due this installment Line 13 minus Line 14 \$ _____

I certify that this is a true, correct and complete Declaration of taxes due (prior name) _____

Signature of Corporate Officer _____ Date _____

Please complete and return one copy of this tax statement each quarter. Remittance should be payable to Director of Insurance and mailed to attention: Tax and Fiscal Services Section, Illinois Department of Insurance, 320 West Washington Street, Springfield, Illinois 62767-4000.
If you have a copy of this statement of this information is required under the Illinois Compiled Statutes, Chapter 120, Section 120-1. This form has been approved by the Form Management Center.

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DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

Section 2510 ILLUSTRATION D Direct Business in the State of Illinois (Property and Casualty)

EXHIBIT OF PREMIUMS AND LOSSES (Summary Page 14 of 14)									
DURING THE YEAR									
Line Item	Description of Business	Gross Premiums		Net Premiums		Gross Losses		Net Losses	
		Direct	Indirect	Direct	Indirect	Direct	Indirect	Direct	Indirect
1	Auto								
2	Homeowners								
3	Commercial								
4	Boat								
5	Fire								
6	Marine								
7	Aviation								
8	Other								
9	Total								
10	Auto								
11	Homeowners								
12	Commercial								
13	Boat								
14	Fire								
15	Marine								
16	Aviation								
17	Other								
18	Total								
19	Auto								
20	Homeowners								
21	Commercial								
22	Boat								
23	Fire								
24	Marine								
25	Aviation								
26	Other								
27	Total								
28	Auto								
29	Homeowners								
30	Commercial								
31	Boat								
32	Fire								
33	Marine								
34	Aviation								
35	Other								
36	Total								
37	Auto								
38	Homeowners								
39	Commercial								
40	Boat								
41	Fire								
42	Marine								
43	Aviation								
44	Other								
45	Total								
46	Auto								
47	Homeowners								
48	Commercial								
49	Boat								
50	Fire								
51	Marine								
52	Aviation								
53	Other								
54	Total								
55	Auto								
56	Homeowners								
57	Commercial								
58	Boat								
59	Fire								
60	Marine								
61	Aviation								
62	Other								
63	Total								
64	Auto								
65	Homeowners								
66	Commercial								
67	Boat								
68	Fire								
69	Marine								
70	Aviation								
71	Other								
72	Total								
73	Auto								
74	Homeowners								
75	Commercial								
76	Boat								
77	Fire								
78	Marine								
79	Aviation								
80	Other								
81	Total								
82	Auto								
83	Homeowners								
84	Commercial								
85	Boat								
86	Fire								
87	Marine								
88	Aviation								
89	Other								
90	Total								
91	Auto								
92	Homeowners								
93	Commercial								
94	Boat								
95	Fire								
96	Marine								
97	Aviation								
98	Other								
99	Total								
100	Auto								
101	Homeowners								
102	Commercial								
103	Boat								
104	Fire								
105	Marine								
106	Aviation								
107	Other								
108	Total								
109	Auto								
110	Homeowners								
111	Commercial								
112	Boat								
113	Fire								
114	Marine								
115	Aviation								
116	Other								
117	Total								
118	Auto								
119	Homeowners								
120	Commercial								
121	Boat								
122	Fire								
123	Marine								
124	Aviation								
125	Other								
126	Total								
127	Auto								
128	Homeowners								
129	Commercial								
130	Boat								
131	Fire								
132	Marine								
133	Aviation								
134	Other								
135	Total								
136	Auto								
137	Homeowners								
138	Commercial								
139	Boat								
140	Fire								
141	Marine								
142	Aviation								
143	Other								
144	Total								
145	Auto								
146	Homeowners								
147	Commercial								
148	Boat								
149	Fire								
150	Marine								
151	Aviation								
152	Other								
153	Total								
154	Auto								
155	Homeowners								
156	Commercial								
157	Boat								
158	Fire								
159	Marine								
160	Aviation								
161	Other								
162	Total								
163	Auto								
164	Homeowners								
165	Commercial								
166	Boat								
167	Fire								
168	Marine								
169	Aviation								
170	Other								
171	Total								
172	Auto								
173	Homeowners								
174	Commercial								
175	Boat								
176	Fire								
177	Marine								
178	Aviation								
179	Other								
180	Total								
181	Auto								
182	Homeowners								
183	Commercial								
184	Boat								
185	Fire								
186	Marine								
187	Aviation								
188	Other								
189	Total								
190	Auto								
191	Homeowners								
192	Commercial								
193	Boat								
194	Fire								
195	Marine								
196	Aviation								
197	Other								
198	Total								
199	Auto								
200	Homeowners								
201	Commercial								
202	Boat								
203	Fire								
204	Marine								
205	Aviation								
206	Other								
207	Total								
208	Auto								
209	Homeowners								
210	Commercial								
211	Boat								
212	Fire								
213	Marine								
214	Aviation								
215	Other								
216	Total								
217	Auto								
218	Homeowners								
219	Commercial								
220	Boat								
221	Fire								
222	Marine								
223	Aviation								
224	Other								
225	Total								
226	Auto								
227	Homeowners								
228	Commercial								
229	Boat								
230	Fire								
231	Marine								
232	Aviation								
233	Other								
234	Total								
235	Auto								
236	Homeowners								
237	Commercial								
238	Boat								
239	Fire								
240	Marine								
241	Aviation								

ILLINOIS REGISTER

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

Section 2510 ILLUSTRATION D Direct Business in the State of Illinois (Limited Health Service Organization)

SCHEDULE T—PREMIUMS AND OTHER CONSIDERATIONS

OF THE

SCHEDULE T—PREMIUMS AND OTHER CONSIDERATIONS
Allocated by State and Territory

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600	601	602	603	604	605	606	607	608	609	610	611	612	613	614	615	616	617	618	619	620	621	622	623	624	625	626	627	628	629	630	631	632	633	634	635	636	637	638	639	640	641	642	643	644	645	646	647	648	649	650	651	652	653	654	655	656	657	658	659	660	661	662	663	664	665	666	667	668	669	670	671	672	673	674	675	676	677	678	679	680	681	682	683	684	685	686	687	688	689	690	691	692	693	694	695	696	697	698	699	700	701	702	703	704	705	706	707	708	709	710	711	712	713	714	715	716	717	718	719	720	721	722	723	724	725	726	727	728	729	730	731	732	733	734	735	736	737	738	739	740	741	742	743	744	745	746	747	748	749	750	751	752	753	754	755	756	757	758	759	760	761	762	763	764	765	766	767	768	769	770	771	772	773	774	775	776	777	778	779	780	781	782	783	784	785	786	787	788	789	790	791	792	793	794	795	796	797	798	799	800	801	802	803	804	805	806	807	808	809	810	811	812	813	814	815	816	817	818	819	820	821	822	823	824	825	826	827	828	829	830	831	832	833	834	835	836	837	838	839	840	841	842	843	844	845	846	847	848	849	850	851	852	853	854	855	856	857	858	859	860	861	862	863	864	865	866	867	868	869	870	871	872	873	874	875	876	877	878	879	880	881	882	883	884	885	886	887	888	889	890	891	892	893	894	895	896	897	898	899	900	901	902	903	904	905	906	907	908	909	910	911	912	913	914	915	916	917	918	919	920	921	922	923	924	925	926	927	928	929	930	931	932	933	934	935	936	937	938	939	940	941	942	943	944	945	946	947	948	949	950	951	952	953	954	955	956	957	958	959	960	961	962	963	964	965	966	967	968	969	970	971	972	973	974	975	976	977	978	979	980	981	982	983	984	985	986	987	988	989	990	991	992	993	994	995	996	997	998	999	1000
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	5																																																																																																																																																																																																																																																																																																																																																																																																																																																																																				

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Annual Retaliatory Tax
- 2) Code Citation: 50 Ill. Adm. Code 2515
- 3) Section Number:
 - 2515.10 Adopted Action:
 - 2515.10 New Section
 - 2515.20 New Section
 - 2515.30 New Section
 - 2515.40 New Section
 - 2515.50 New Section
 - 2515.60 New Section
 - 2515.70 New Section
 - 2515.80 New Section
 - 2515.90 New Section
 - 2515.100 New Section
 - 2515.Illustration A New Section
 - 2515.Illustration B New Section
- 4) Statutory Authority: Implementing Sections 444 and 444.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401, 444 and 444.1] (see P.A. 90-583, effective May 29, 1998).
- 5) Effective Date of Rules: December 21, 1998
- 6) Does this rule contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No
- 8) A copy of the adopted rule including any material incorporated by reference, is on file in the Department of Insurance's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 25, 1998, 22 Ill. Reg. 16910
- 10) Has JCPR issued a Statement of Objections to this Rule? No
- 11) Difference(s) between proposal and final version:
 - a) In the table of contents, Section 2515.Illustration A add "Privilege and" following "Annual".
 - b) Section 2515.40 on the last line of the introductory paragraph delete "the Illinois Insurance Code [215 ILCS 5/1 through 165/30]" and add "any of the Acts in Chapter 215 of the Illinois Compiled Statutes" in lieu thereof.
 - c) Section 2515.40, in the definition for both "State of Illinois" and

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- "State of Incorporation" add "in the aggregate" following "charges" on the first line.
- d) Section 2515.40, in the definition of "State of Incorporation" delete "transacted a similar insurance business" on the third line and add "similar operation" in lieu thereof.
- e) Section 2515.40, in the definition of "State of Incorporation" delete "transacted" on the fourth line and add "had" in lieu thereof.
- f) Section 2515.40, in the definition of "State of Incorporation" add "or state" following "port" on the last line. Also add "or for an alien Lloyd's, the state in which it maintains its assets in compliance with Article V of the Code" following "entry" also on the last line.
- g) Section 2515.50 change "state" to "State" on the second line.
- h) Section 2515.50(a) delete "this" on the second line and add "subsection (b) of this" in lieu thereof.
- i) Section 2515.50(b) change "amount" to "amounts" on the second line.
- j) Section 2515.50(b)(2) add a semicolon at the end.
- k) Section 2515.50(b)(5) add "Illinois" following "of".
- l) Section 2515.50(b)(9) add "for the individual foreign or alien company" following "allowed" on the first line.
- m) Section 2515.50(b)(9) delete "Tax Offset Notice for Calendar Year" on the second line and add "assessments made prior to December 31," in lieu thereof. Also add "and" following "1997" on the third line.
- n) Section 2515.50(b)(9) change "has" to "have" on the fourth line.
- o) Section 2515.50(b)(9) delete "1997" on the last line and add "2002. To receive such tax offset, proof of payment (which includes the date of eligible assessment, the allowed offset percentage and a copy of the canceled check) must be included".
- p) Section 2515.50(b)(10) delete "taxes and" on the first line. Delete "article XXX" on the first line and add "Section 408" in lieu thereof. Also add "[215 ILCS 5/408] following "the Code" on the first line.
- q) Section 2515.50(c) change "paid" to "PAID" on the third line.
- r) Section 2515.50(c) change "business" to "operations" on the fifth line.

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- e) Section 2515.50(c) add "company's" ahead of "state" and also add "or country" following "state" before the colon.
- t) Section 2515.50(c)(5) delete "or franchise" following "income" and add "paid" following "tax" on the first line.
- u) Section 2515.50(c)(7) delete "or" add "tax" following "Privilege" and also add "or franchise tax" following "Premium tax".
- v) Section 2515.50(c)(9) delete "changed per Article XXV of the Code [215 ILCS 5/408 through 415]" on the second line and add "listed in subsection (b) of this Section" in lieu thereof.
- w) Section 2515.50(d) change "incorporation" to "incorporation's" on the second line.
- x) Section 2515.50(d)(5) change "subsection" to "subsections" on the second line and add "and (b)" following "(a)".
- y) Section 2515.60(b) change "installments" to "statements" on the second line.
- z) Section 2515.60(b) change "Section" to "subsection" on the fourth line.
- aa) Section 2515.60(b) change "ended" to "ending" on the seventh line.
- bb) Section 2515.60(c) change "Section" to "subsection" on the third line.
- cc) Section 2515.60(c) change "installments" to "statements" on the fourth line.
- dd) Section 2515.60(c) add a comma following "year" on the eighth line.
- ee) Section 2515.60(c) change "Section" to "subsection" on the last line.
- ff) Section 2515.60(d) delete all proposed text and add the following in lieu thereof,
 "Any foreign or alien company that is domiciled in a state or country that allows an extension for the filing of franchise or premium tax must file an annual retaliatory tax return on March 15. Any underpayment will subject the company to penalties and interest pursuant to Section 412 of the Code and Section 2515.90 of this Part".
- gg) Section 2515.60(e) add "calendar" following "preceding" on the sixth line. Also add "retaliatory tax" following "annual".

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- hh) Section 2515.60(f) add "timely" following "to file a" on the second line.
- ii) Section 2515.70 change "at" to "in" two lines up from the bottom.
- jj) Section 2515.80(a) delete all proposed introductory text and add "Each company required to file an annual retaliatory tax return or quarterly statement pursuant to this Part must file its annual return or quarterly statement, even if no tax is owed, with the following applicable information:
- a) The applicable information set forth in the privilege/retaliatory tax return as annually sent and updated by the Department, per example shown in Illustration A of this Part, which includes, but is not limited to the following:"
- kk) Section 2515.90 add "timely" ahead of "make" twice on the second line.
- ll) Section 2515.90 add a comma following "year" on the fourth line.
- mm) Section 2515.90 add "and interest" following "penalty" on the fifth line.
- nn) Section 2515.100 delete "A" on the third line and add "The hearing" in lieu thereof. Also delete "for hearing" on this same line.
- oo) Section 2515.100 add "50 Ill. Adm. Code 2500.50 of this Part" following "pursuant to" on the fourth line. Also change "[412 ILCS 5/412]" to "[215 ILCS 5/412]" on the same line.
- pp) Section 2515.111 delete "A and B were reformatted and minor nonsubstantive changes were made."
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No. The Department did not agree to make the changes listed under number three, six or seven of the Second Notice Changes document.
- 13) Will this rule replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: This Part explains the calculation of the retaliatory tax, sets forth the payment informational requirements and the payment schedule for the retaliatory tax. Furthermore, it explains how the 1997 retaliatory tax is to be calculated and provides three illustrations which help describe informational requirements for filing the annual retaliatory tax return, quarterly installment and a

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supplemental tax return when filing privilege tax under protest.

16) Information and questions regarding this adopted rule shall be directed to:

Chuck Feinen
Staff Attorney
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 557-1396

The full text of the Adopted Rules begins on the next page:

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TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ee: FEES, CHARGES AND TAXES

PART 2515
ANNUAL RETALIATORY TAX

Section
2515.10 Purpose
2515.20 Applicability
2515.30 Severability
2515.40 Definitions
2515.50 Calculation of the Annual Retaliatory Tax Amount
2515.60 Payment Schedule for the Annual Retaliatory Tax
2515.70 Filing Supplemental Retaliatory Tax Return
2515.80 Annual Retaliatory Tax Return and Quarterly Statement Filing Requirements
2515.90 Civil Penalties and Interest
2515.100 Hearings

ILLUSTRATION A Annual Privilege and Retaliatory Tax Returns and Quarterly Tax Statements
ILLUSTRATION B Supplemental Retaliatory Tax Return

AUTHORITY: Implementing Sections 444 and 444.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401, 444 and 444.1] (see P.A. 90-583, effective May 29, 1998).

SOURCE: Adopted at 23 Ill. Reg. 249, effective

Section 2515.10 Purpose

This Part sets forth certain procedural requirements, and explains the calculation of the Annual Retaliatory Tax that is to be collected pursuant to Sections 444 and 444.1 of the Illinois Insurance Code [215 ILCS 5/444 and 444.1] (see P.A. 90-583, effective May 29, 1998).

Section 2515.20 Applicability

This Part applies to all foreign or alien companies doing insurance business or licensed in the State of Illinois.

Section 2515.30 Severability

If any Section, subsection, paragraph, sentence, clause, or phrase of this Part is declared invalid for any reason, the remaining portions of this Part, that are severable from the invalid portion shall remain in full force and effect. If any portion of this Part is declared invalid in one or more of its

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foreign or alien company pursuant to Section 531.13 of the Code [215 ILCS 5/531.13] based on the assessments made prior to December 31, 1997 and issued by the Illinois Life and Health Guaranty Association that have been paid prior to December 31, 2002. To receive such tax offset, proof of payment (which includes the date of eligible assessment, the allowed offset percentage and a copy of the canceled check) must be included; and

- 10) Other insurance fees per Section 408 of the Code [215 ILCS 5/408]. For calendar years starting January 1, 1998, and thereafter, the state of incorporation's basis is the sum of the amounts that an Illinois domiciled company would have paid in the foreign or alien ajcr-noregl domiciliary state or country if it transacted similar operations there as did the foreign or alien company in Illinois for the following items, or their equivalent, in the foreign or alien ajcr-noregl state or country of domicile:
 - 1) Annual Statement Filing Fee;
 - 2) Certificate of Authority Fee;
 - 3) Financial Regulation Fee;
 - 4) Policy Form Filing Fee;
 - 5) The amount of income tax paid without reduction, if any was otherwise allowed, for a similar association offset as the Illinois Life and Health Guaranty Association offset as long as subsection (b)(9) of this Section is effective or until January 1, 2003;
 - 6) The amount of Fire Department tax;
 - 7) Annual Privilege tax, Premium tax or Franchise tax;
 - 8) State Fire Marshal tax; and
 - 9) Other insurance taxes and fees charged in the foreign or alien ajcr-noregl state of domicile similar to those listed in subsection (b) of this Section.

- d) For the purposes of this Part, the State of Illinois' basis and the state of incorporation's basis do not, among others, include the following items, or their equivalent:
 - 1) Cost Containment fees or fees principally for collecting underwriting data;
 - 2) Workers' Compensation Rate adjustment, Second injury adjustments or other assessments of a workers' compensation system;
 - 3) Special purpose entity assessments;
 - 4) Illinois Guaranty Fund assessments;
 - 5) Illinois Life and Health Guaranty Association assessment, unless established as an offset pursuant to subsections (a) and (b) of this Section;
 - 6) Auto Theft assessment; and
 - 7) Assessments not referenced by or contained in Article XXV of the Code [215 ILCS 5/408 through 415].

- e) The retaliatory tax owed by a foreign or alien company is the

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applications, the remaining portion shall be severable and in effect in all valid applications.

Section 2515.40 Definitions

Except as stated and unless a different meaning of a term is clear from its context, the definitions and terms used in this Part shall be the same as those used in 50 Ill. Adm. Code 2500.40 and any of the Acts in Chapter 215 of the Illinois Compiled Statutes.

State of Illinois' Basis means the taxes, fees and charges in the aggregate assessed against and paid by a company transacting insurance business in the State of Illinois as described in subsection 2515.50(b) of this Part.

State of Incorporation's Basis means the taxes, fees and charges that would have been assessed against and paid by an Illinois company if it had similar operation in the state of domicile of the foreign or alien company, as the foreign or alien company had in Illinois, as described in subsection 2515.50(c) of this Part. If applicable, the state of domicile for the alien company may mean its port or state of entry or, for an alien Lloyd's, the state in which it maintains its assets in compliance with Article V of the Code.

Section 2515.50 Calculation of the Annual Retaliatory Tax Amount

Foreign and alien companies are required to pay a retaliatory tax as calculated in subsection (e) of this Section if the sum of the State of Illinois' basis, as calculated in subsection (b) of this Section, is less than the sum of the state of incorporation's basis, as calculated pursuant to subsection (c) of this Section.

- a) For the calendar year ending December 31, 1997, the sum of the State of Illinois' basis shall be the sum as calculated by subsection (b) of this Section, plus any tax offset allowed under Section 531.13 of the Code [215 ILCS 5/531.13], and any income taxes paid in the year 1997 under the Illinois Income Tax Act [35 ILCS 5/201(a) through (d)] after any tax offset allowed under Section 531.13 of the Code [215 ILCS 5/531.13].
- b) For calendar years starting January 1, 1998, and thereafter, the State of Illinois' basis is the sum of the amounts actually paid for the following items:
 - 1) Annual Statement Filing Fee;
 - 2) Certificate of Authority Fee;
 - 3) Financial Regulation Fee;
 - 4) Policy Form Filing Fee;
 - 5) The amount of Illinois Corporate and Replacement income tax paid;
 - 6) The amount of Fire Department tax paid;
 - 7) Annual Privilege tax paid;
 - 8) State Fire Marshal tax paid;
 - 9) Guaranty Association tax offset allowed for the individual

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difference between the sum of the state of incorporation's basis minus the sum of the State of Illinois' basis.

Section 2515.60 Payment Schedule for the Annual Retailatory Tax

- a) For the calendar year ending December 31, 1997, the retailatory tax for any foreign or alien company shall be as determined pursuant to Sections 444 and 444.1 of the Code [215 ILCS 5/444 and 444.1] (see P.A. 90-583, effective May 29, 1998) and this Part.
- b) Any annual retailatory tax returns and payments made for the year ending December 31, 1997, and any quarterly statements of the taxpayer's total estimated 1998 retailatory tax paid prior to May 29, 1998, which do not include the items specified by subsection 2515.50(a) of this Part, may be amended and restated at the taxpayer's election within one year after the effective date of this Part. An amended and restated return for the year ending December 31, 1997, filed under this subsection and pursuant to the applicable requirements of 50 Ill. Adm. Code 2525.70 shall treat any 1997 payment of estimated privilege taxes under Section 409 of the Code [215 ILCS 5/409] as in effect prior to October 23, 1997, as a payment of estimated retailatory taxes for the year ending December 31, 1997. Any overpayment resulting from an amended return and restated retailatory tax burden filed pursuant to this subsection shall be allowed as a credit against any subsequent privilege or retailatory tax obligations only after such overpayment has been approved by the Department.
- c) All foreign and alien companies shall make an annual retailatory tax return for the preceding calendar year on or before March 15, subject to the applicable requirements of subsection 2515.80(a) of this Part. Payment of quarterly statements of the taxpayer's total estimated retailatory tax for the current calendar year shall be due on or before April 15, June 15, September 15 and December 15 of such year in the amount of at least 1/4 of either the total tax paid during the previous calendar year, or 80% of the tax due to be paid for the current calendar year and shall be filed pursuant to subsection 2515.80(b) of this Part.
- d) Any foreign or alien company that is domiciled in a state or country that allows an extension for the filing of franchise or premium tax must file an annual retailatory tax return on March 15. Any underpayment will subject the company to penalties and interest pursuant to Section 412 of the Code and Section 2515.90 of this Part.
- e) All companies transacting insurance in this State whose annual retailatory tax for the immediately preceding calendar year was less than \$5,000 are not required to file quarterly statements pursuant to subsection (c) of this Section. Companies with an annual retailatory tax of less than \$5,000 for the immediately preceding calendar year shall file only an annual retailatory tax return pursuant to subsection (c) of this Section.

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- f) Failure to file an annual retailatory tax return, even if no tax is owed, to make a timely payment, or to file a timely quarterly statement, if required, will subject the company to penalties pursuant to Section 2515.90 of this Part.

Section 2515.70 Filing Supplemental Retailatory Tax Return

Any foreign or alien company that pays a portion or all of its privilege tax required by Section 409 of the Code [215 ILCS 5/409] and 50 Ill. Adm. Code 2510 under protest shall, at the time of receiving a preliminary injunction, file a supplemental retailatory tax return sufficient to disclose the full amount of retailatory taxes which would be due and owing for the tax period in question if the protest was upheld. Such supplemental retailatory tax return shall include in the State of Illinois' basis only the amount of any privilege tax paid that has not been paid under protest. An example of such tax return is set forth in Illustration B of this Part.

Section 2515.80 Annual Retailatory Tax Return and Quarterly Statement Filing Requirements

Each company required to file an annual retailatory tax return or quarterly statement pursuant to this Part must file its annual return or quarterly statement, even if no tax is owed, with the following applicable information:

- a) The applicable information set forth in the privilege/retailatory tax return as annually sent and updated by the Department, per example shown in Illustration A of this Part, which includes, but is not limited to the following:
 - 1) Name, Federal Employer Identification Number (FEIN), and address of the insurance company;
 - 2) National Association of Insurance Commissioners group number and company code;
 - 3) Information concerning the privilege tax calculation or, if applicable, the state of domicile's tax return completed using Illinois premiums only;
 - 4) Information concerning the allocation of income taxes in a Unitary group, such as, the Unitary group's total premium written including annuities, Unitary group's total income taxes paid and the individual ajcr-noregl premium written; and
 - 5) Signature of an officer of the company attesting to the truth of the information being submitted.
- b) Quarterly statements shall include, but not be limited to, the following information as set forth in Illustration A of this Part:
 - 1) Name, Federal Employer Identification Number (FEIN), and address of the insurance company;
 - 2) Information concerning the method by which the quarterly installment is being calculated; and
 - 3) Signature of an officer of the company attesting to the truth of the information being submitted.

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Section 2515.90 Civil Penalties and Interest

Failure of a company to file an annual retaliatory tax return, even if no tax is owed, to timely make the retaliatory tax payment, or to timely make the quarterly payments, if required, of at least 1/4 of either the total tax paid during the previous calendar year, or 80% of the tax due to be paid for the current calendar year shall subject the company to the penalty and interest provisions set forth in Section 412 of the Code (215 ILCS 5/412) and as assessed pursuant to 50 Ill. Adm. Code 2525.100(a).

Section 2515.100 Hearings

Any person or company required to pay an annual retaliatory tax pursuant to this Part may request a hearing to be held for the purposes of determining if the assessed tax is appropriate. The hearing request shall be made pursuant to 50 Ill. Adm. Code 2500.50 of this Part the grounds set forth in Section 412 of the Code (215 ILCS 5/412), a mistake of fact, an error in calculation or an erroneous interpretation of a statute of this or any other state, and such request will only be granted based on those grounds. The hearing request shall be made pursuant to the provisions of 50 Ill. Adm. Code 2500.50.

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Section 2515 ILLUSTRATION A Annual Privilege and Retaliatory Tax Return



State of Illinois
1998 Privilege and Retaliatory Tax Statement for Property and Casualty Insurers
Businesses During the Calendar Year 1998

Illinois Department of Insurance
310 West Washington Street
Springfield, IL 62767-0001

Due: March 15, 1999

Federal Employer Identification Number _____ NAC _____	
Name of Insurance Company _____	
with principal office located at _____ Street and Number _____ City _____ State _____ Zip Code _____	as required by and in accordance with '215 ILCS 5/410' of the Illinois Compiled Statutes.
Mailing address, if other than principal office location shown above _____	
Contact person _____	Phone (_____) _____

Instructions

Important Notice: The FEIN must be on this statement to ensure proper posting to your company account

- 1 The Privilege and Retaliatory Tax Statement must be filed and the taxes due must be paid on or before March 15, 1999. **The official filing date is the U.S. Postal date.**
- 2 Separate checks and statement is requested for each company of an insurance group
- 3 The Department of Insurance cannot issue cash refunds of overpayments. Overpayments should be applied to all future privilege and retaliatory tax liabilities only
- 4 No authority exists for granting any extension of time for filing or payment
- 5 The payment received will be subject to audit and subsequent adjustments if necessary
- 6 Any penalties to be levied will be assessed as provided by '215 ILCS 5/412,' Illinois Compiled Statutes
- 7 For only one original separate copy. The Illinois Department of Insurance will not accept computerized tax or any facsimile tax statements. Companies must use the prescribed form furnished by the Department. Failure to do so will subject your company to penalties per '215 ILCS 5/412' of the Illinois Compiled Statutes
- 8 Remittance should be made payable to the **Director of Insurance** and mailed with the completed tax statement to attention: Tax and Fiscal Services Section Illinois Department of Insurance, 320 West Washington Street, Springfield, Illinois 62767-0001

Do not mail checks or forms with the Annual Statement

Important Notice: Outlets of this information is restricted, use the Illinois Computer Statutes' Insurance Laws. Failure to provide this information may result in a fine. This form has been approved by the Forms Management Center.

1-640-0735-9

Revised on 10/29/98

ILLINOIS REGISTER
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NAIC Group Code _____ NAIC Company Code _____		Direct Business in the State of Illinois During the Year 1998 Property & Casualty Insurance	
Line of Business	Dividends Paid or Policyholders' Share (Line 32)	Gross Premiums Less: Premiums Not Taken For Reinsurance (Line 33)	Net Premiums (Line 34)
1. Fire			
2. Marine per trip			
3. Fireboat/marine per trip			
4. Commercial marine per trip			
5. Commercial marine per trip (other than per trip)			
6. Commercial marine per trip (other than per trip)			
7. Marine cargo			
8. Marine cargo			
9. Marine cargo			
10. Marine cargo			
11. Marine cargo			
12. Marine cargo			
13. Marine cargo			
14. Marine cargo			
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100. Marine cargo			

Amounts Must Agree to Direct Business Page of Company's Annual Statement

Property and Casualty Insurance Companies		
1 Premium	2 Provision Rate	3 Premium Tax
1. Property and Casualty Insurance (Page 15)		
2. Finance and service charges as reported on Page 15 of		
3. DEDUCTIONS		
4. NET TAXABLE PROPERTY & CASUALTY PREMIUMS		
5. Property & Casualty Premium Tax (Column 1, Line 4	.005	
6. Total Property & Casualty Premium Tax (Column 1, Line 4		
7. DEDUCTIONS		
8. NET TAXABLE ACCIDENT AND HEALTH PREMIUMS		
9. Property & Casualty Accident & Health Premium Tax		
10. Total Property & Casualty Accident & Health Premium Tax	.004	
11. Less Credits to the Privilege Tax		
12. ILINOIS CORPORATE INCOME TAX PAYMENTS		
13. ILINOIS PERSONAL PROPERTY REPLACEMENT		
14. TOTAL NET INCOME TAXES (Line 12 plus Line 13)		
15. Total Property and Casualty Premium & Accident and Health		
16. Premium (Col 1, Line 4 plus Col 1, Line 8)		
17. Integration Offset (Line 14 or 15 minus Line 17)		
18. Integration Offset Amount (Line 14 or 15 minus Line 17)		
19. Total Property and Casualty Premium & Accident and Health		
20. Finance and service charges as reported on Page 15 of		

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Computation of Retaliatory Taxes

Under 215 ILCS 5.444 and 5.444.1¹ of the Illinois Compiled Statutes, when the laws of any other state require of companies domiciled in Illinois the payment of penalties, fees, charges or taxes greater than those required in the aggregate for like purposes under the laws of Illinois by companies domiciled in such states, the Director of Insurance is required to impose comparable requirements on a retaliatory basis. All insurance related taxes and fees, including premium taxes, based on the State of Incorporation requirements, should be calculated below with the total carried forward to Page 6, Line 2 under Column 2.

Retaliatory Tax Calculation	Column 1 State of Illinois Basis	Column 2 State of Incorporation Basis
1. Annual Statement Filing Fee	\$100.00	
2. Certificate of Authority Fee	\$100.00	
3. Fire Marshal Tax		
4. Fire Department Tax (Proof of Payment must be attached)		
5. Financial Regulation Fee		
6. Policy Form Filing Fee		
*7a. Illinois Corporate & Replacement Income Taxes Paid		XXXXXXXXXXXX
7b. Illinois Life & Health Guaranty Fund Credit (per Association's official notice)		XXXXXXXXXXXX
7c. Other State of Illinois Taxes and Fees per Article XXV		XXXXXXXXXXXX
7d. Other State of Incorporation Taxes and Fees	XXXXXXXXXXXXXX	
7e. State of Incorporation income tax paid without reduction, if any is otherwise allowed, for a similar association offset as provided in Section 215 ILCS 5.50(c)(15).	XXXXXXXXXXXXXX	
8. Privilege Premium Tax, Franchise Tax, etc.		
9. Total Illinois Basis		XXXXXXXXXXXX
10. Total State of Incorporation Basis	XXXXXXXXXXXXXX	
11. Total Retaliatory Tax Due (Line 10 minus Line 9, balance cannot be less than -0-)	XXXXXXXXXXXXXX	

¹If Illinois Corporate and Replacement income taxes are paid on a unitary method, please complete Schedule U-1 in detail. Proof of Payment (cancelled checks and IL 1120) must be attached to verify basis.

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Income Tax Offset Based on Unitary Method of Corporate and Replacement Tax

Allocated by each Company's Illinois Premium Written (including annual .25) to the Unitary Group's Total Illinois Premium Written (Schedule U-1)

1		2	Payment		Refunds	
Company Name of Each Unitary Member	Company FEIN	Illinois Direct Premium	Percentage Allocation	Tax Offset Allocated by Percentage	Refund Allocation by %	Refunds Allowed
1						7
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
Column Totals						

Taxes Paid By (Name of Company and the FEIN of Taxpayer)

Total Taxes Paid _____
Total Refund Issued _____
Net Available for Offset _____
(This amount will be verified per the Department of Revenue records.)

Procedure to Determine the Income Tax Offset on the Unitary Method

Each unitary Schedule U-1 to determine the income tax offset for companies using the Unitary Method. The allocation of the total income tax paid is based on the unitary premium written (including annual .25) for each individual company as a percent of the unitary group total. This allocation is published to the unitary parties' year amount paid and the result is the available tax offset among the individual companies. If a member of the unitary group received a refund during the calendar year, the refund must be allocated among all members of the unitary group. Only the net amount is allowed.
Each unitary group must complete Schedule U-1 to be allowed the offset. Any unitary group may close out complete Schedule U-1 and be allowed to use the annual Corporate and Replacement Income Taxes and the Department of Revenue records.

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Payment Summary

Column 1	Column 2
1. Amount due as Privilege Tax (Line 19 Page 3)	
2. Amount due as Retaliatory Tax (Line 11 Page 4)	
3. Total Privilege and Retaliatory Tax (Line 1 plus 2)	
4. Less Privilege Tax Estimated Installments	
4a. Total (Add 4a thru 4d)	
4b. June 15, 1998	
4c. September 15, 1998	
4d. December 15, 1998	
5. Less Retaliatory Tax Quarterly Estimates	
5a. April 15, 1998	
5b. June 15, 1998	
5c. September 15, 1998	
5d. December 15, 1998	
5e. Total (Add 5a thru 5d)	
6. Total Estimated Payments (Lines 4e plus 5e)	
7. Less: Prior Year End Overpayment (as reported on prior year tax return)	
8. Total Credits (Line 6 plus line 7)	
9. Balance Due (Line 3 less Line 8)	
*10. Failure to file tax return penalty (\$200 per month or 5% of tax, whichever is greater)	
*11. Failure to pay tax penalty (5% of tax due)	
*12. Interest on the tax paid after due date per IRS rate minimum 12%	
13. Total remittance with tax return (sum of Lines 9, 10, 11 and 12)	
*14. Tax Overpayment (if Line 8 is greater than Line 9)	
**Calculate per "215 ILCS 5/412" of the Illinois Compiled Statutes.	
**All overpayments must be applied to future privilege or retaliatory tax liabilities only.	

Name _____ Title _____ of the _____ (Company)

(Signature of Corporate Officer)

declares under penalties of perjury that the foregoing Statement (including the accompanying schedules) has been examined by him and to the best of his knowledge and belief is true, correct and complete.

Date _____

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DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

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Section 2515 ILLUSTRATION A Annual Privilege and Retaliatory Tax Return



State of Illinois

1998 Privilege and Retaliatory Tax Statement for Life and Accident and Health Companies
Business during the Calendar Year 1998

Illinois Department of Insurance
320 West Washington Street
Springfield, Illinois 62767-0001

Due: March 15, 1999

Federal Employer Identification Number _____ NAIC _____

Name of Insurance Company _____

with principal office located at _____ State _____ City _____ Zip Code _____

incorporated under the laws of the State of _____ BE required by and in accordance with "215 ILCS 5/410" of the Illinois Compiled Statutes

Mailing address, if other than principal office location shown above _____

Contact person _____ Phone (_____) _____

Instructions

- Important Notice:** The FEIN must be on this statement to ensure proper posting to your company account
- The Privilege and Retaliatory Tax Statement must be filed and the taxes due must be paid on or before March 15, 1999. The official filing date is the U.S. Postal date.
 - Separate checks and statement is requested for each company of an insurance group
 - The Department of Insurance cannot issue cash refunds of overpayments. Overpayments should be applied to all future privilege and retaliatory tax liabilities only.
 - No authority exists for granting any extension of time for filing or payment.
 - The payment received will be subject to audit and subsequent adjustments if necessary.
 - Any penalties to be levied will be assessed as provided by "215 ILCS 5/412" Illinois Compiled Statutes.
 - File only one original notarized copy. The Illinois Department of Insurance will not accept computerized, fax or any electronic tax statements. Companies must use the prescribed form furnished by the Department. Failure to do so will subject your company to penalties per "215 ILCS 5/412" of the Illinois Compiled Statutes.
 - Remittance should be made payable to the **Director of Insurance** and mailed with the completed tax statement to attention: Tax and Fiscal Services Section, Illinois Department of Insurance, 320 West Washington Street, Springfield, Illinois 62767-0001.

Do not mail checks or forms with the Annual Statement

Important Notice: Disclosure of this information is required under the Illinois Compiled Statutes: Insurance Laws. Failure to provide this information will result in a fine. This form has been approved by the Forms Management Center.

10-666-0038-1

Approved on September 1998

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DEPARTMENT OF INSURANCE
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DEPARTMENT OF INSURANCE

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NAIC Group Code		NAIC Company Code		Direct Business in the State of Illinois During the Year 1998					
				Life Insurance					
1	2	3	4	5	6	7	8	9	10
Direct Premiums and Amounts Considerations	Direct Premiums	Direct Premiums	Direct Premiums	Direct Premiums	Direct Premiums	Direct Premiums	Direct Premiums	Direct Premiums	Direct Premiums
1. Life Insurance									
2. Amounts Considerations									
3. Direct Premiums									
4. Total (Sum of Lines 1 to 3)									
Direct Dividends to Policyholders									
5. Life Insurance									
5.1. Paid in excess of face									
5.2. Paid in excess of face (non-term)									
5.3. Paid in excess of face (term)									
5.4. Other									
5.5. Total (Sum of Lines 5.1 to 5.4)									
Annuities									
6.1. Paid in excess of face									
6.2. Paid in excess of face (non-term)									
6.3. Paid in excess of face (term)									
6.4. Other									
6.5. Total (Sum of Lines 6.1 to 6.4)									
Accident and Health Insurance									
7.1. Direct Premiums									
7.2. Direct Premiums									
7.3. Direct Premiums									
7.4. Direct Premiums									
7.5. Direct Premiums									
7.6. Direct Premiums									
7.7. Direct Premiums									
7.8. Direct Premiums									
7.9. Direct Premiums									
7.10. Direct Premiums									
7.11. Direct Premiums									
7.12. Direct Premiums									
7.13. Direct Premiums									
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7.93. Direct Premiums									
7.94. Direct Premiums									
7.95. Direct Premiums									
7.96. Direct Premiums									
7.97. Direct Premiums									
7.98. Direct Premiums									
7.99. Direct Premiums									
8.00. Direct Premiums									

Amounts Must Agree to Direct Business Page of Company's Annual Statement.

CONTINUED ON PAGE 360 IN THIS ISSUE OF THE REGISTER

1) Heading of the Part: Annual State Fire Marshal Tax

2) Code Citation: 50 Ill. Adm. Code 2520

3) Section Number:
 2520.10 New Section
 2520.20 New Section
 2520.30 New Section
 2520.40 New Section
 2520.50 New Section
 2520.60 New Section
 2520.70 New Section
 2520.80 New Section
 2520.90 New Section
 2520. Illustration A New Section

4) Statutory Authority: Implementing Section 12 of the Fire Investigation Act [425 ILCS 25/12] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

5) Effective Date of Rules: December 21, 1998

6) Does this rule contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? No

8) A copy of the adopted rule including any material incorporated by reference, is on file in the Department of Insurance's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register:

September 25, 1998, 22 Ill. Reg. 16996

10) Has JCRC issued a Statement of Objections to this Rule? No

11) Difference(s) between proposal and final version:

- In the main authority note change "Sections" to "Section" and delete "and 13" on the first line. Also delete "and 13" on the second line.
- Section 2520.20 add "in this State" following "business" on the second line.
- Section 2520.20 add "Illinois Insurance" following "the" on the second line to the last line.
- Section 2520.20 add "and class 3" following "class 2" on the last line.

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line.

- e) Section 2525.40 on the last line of the introductory paragraph delete "the Illinois Insurance Code [215 ILCS 5/1 through 165/30]" and add "any of the Acts in Chapter 215 of the Illinois Compiled Statutes? in lieu thereof."
- f) Section 2520.40 in the definition of "Direct Premium," add a comma following "Producers" three lines up from the bottom.
- g) Section 2520.50(a)(1) add "(100%)" following "all" on the first line.
- h) Section 2520.50(a)(1) through (12) move "direct" to precede "premium" on the first line of each subparagraph.
- i) Section 2520.50(a)(1) through (12) delete "Illinois Insurance".
- Cj) Section 2520.50(a)(2) delete "the" on the first line.
- k) Section 2520.50(a)(2) through (12) delete the comma following the "line" number reference.
- l) Section 2520.50(a)(3) add "direct" following "Hail" on the second line.
- m) Section 2520.50(e) change "a" to "the" on the last line.
- n) Section 2520.70 add "Annual" following "The" on the first line.
- o) Section 2520.70 move "filed" to follow "if any," on the last line.
- p) Section 2520.80 add "and interest" ahead of "provisions" and delete "as" on the fourth line.
- q) Section 2520.90 delete "A request for hearing shall be made pursuant to" on the third line and add "The hearing request shall be made pursuant to 50 Ill. Adm. Code 2500.50 and shall be made on" in lieu thereof.
- r) Section 2520.90 delete the last sentence of this Section.
- s) Section 2520.Illustration A change "notice" to "Notice" three lines up from the bottom.
- t) Section 2520.Illustration A on the Fire Marshal Tax Worksheet add an asterisk following "Fire", "Allied Lines" and "Homeowner M.P.".
- u) Section 2520.Illustration A on the Fire Marshal Tax Worksheet, line 13

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and 15 delete the comma after (1? and (2? respectively.

- v) Section 2520.Illustration A on the Fire Marshal Tax Worksheet delete "reverse side" and add "of the Annual Return" three lines up from the bottom of the worksheet.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rule replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: This Part will set forth the procedural requirements for the payment of the State Fire Marshall Tax pursuant to Section 12 of the Fire Investigation Act [425 ILCS 25/12]. Furthermore, this Part will clarify the calculation of the tax. There is one illustration with this Part and it provides information for the State Fire Marshall Tax return.
- 16) Information and questions regarding this adopted rule shall be directed to:
 Chuck Feinen
 Staff Attorney
 Department of Insurance
 320 West Washington
 Springfield, Illinois 62767-0001
 (217) 557-1396

The full text of the Adopted Rules begins on the next page.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER ee: FEES, CHARGES AND TAXES

PART 2520

ANNUAL STATE FIRE MARSHAL TAX

Section	
2520.10	Purpose
2520.20	Applicability
2520.30	Severability
2520.40	Definitions
2520.50	Calculation of the State Fire Marshal Tax
2520.60	Payment Schedule for the State Fire Marshal Tax
2520.70	State Fire Marshal Tax Return Filing Requirements
2520.80	Civil Penalties and Interest
2520.90	Hearings
ILLUSTRATION A	Annual State Fire Marshal Tax Return

AUTHORITY: Implementing Section 12 of the Fire Investigation Act [425 ILCS 25/12] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Adopted at 22 Ill. Reg. 268, effective DEC 21 1998.

Section 2520.10 Purpose

This Part sets forth certain procedural requirements, and explains the calculation of the Annual State Fire Marshal Tax that is collected pursuant to Section 12 of the Fire Investigation Act [425 ILCS 25/12].

Section 2520.20 Applicability

This Part applies to insurance companies, Farm Mutuals, Illinois Fair Plan and surplus line producers transacting insurance business in this State pursuant to Section 4 class 3 of the Illinois Insurance Code [215 ILCS 5/4 class 3] in this State, including those which hold licenses to conduct insurance business in both class 2 and class 3 of Section 4 of the Illinois Insurance Code [215 ILCS 5/4 class 2 and class 3].

Section 2520.30 Severability

If any Section, subsection, paragraph, sentence, clause, or phrase of this Part is declared invalid for any reason, the remaining portions of this Part that are severable from the invalid portion shall remain in full force and effect. If any portion of this Part is declared invalid in one or more of its applications, the remaining portion shall be severable and in effect in all

DEPARTMENT OF INSURANCE

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valid applications.

Section 2520.40 Definitions

Except as stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall be the same as those used in 50 Ill. Adm. Code 2500.40 and any of the Acts in Chapter 215 of the Illinois Compiled Statutes.

Direct Premium means the "Direct Premiums Written" as reported in column 2 of page 15 (Exhibit of Premiums and Losses) of the 1997 Annual Statement, as hereafter amended, minus the "Dividends Paid or Credited on Direct Business" as reported in column 4 on page 15 (Exhibit of Premiums and Losses) of the 1997 Annual Statement, as hereafter amended; and for Farm Mutuals, Illinois Fair Plan and surplus line producers, it is the premium written as reported pursuant to Sections 13, 143.25 and 445 of the Code [215 ILCS 5/13, 143.25 and 445], respectively.

Section 2520.50 Calculation of the State Fire Marshal Tax

The Annual State Fire Marshal Tax shall be calculated by multiplying the sum of taxable premium for the year, as set forth in subsections (a) through (d) of this Section, by 1%.

- a) The total taxable premium for a year is calculated for insurance companies by totaling the direct premium for the following lines of business set forth below and as shown in Illustration A of this Part:
 - 1) All (100%) fire direct premium as reported on page 15 (Exhibit of Premiums and Losses) line 1 in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Code [215 ILCS 5/136] less any Illinois Fair Plan premiums;
 - 2) Twenty-five percent (25%) of the sum of Allied Lines direct premium as reported on page 15 (Exhibit of Premiums and Losses) line 2.1 in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Code [215 ILCS 5/136] less any Illinois Fair Plan premiums;
 - 3) One percent (1%) of Multiple Peril Crop direct premium, or Crop Hail direct premium which is not federally insured, as reported on page 15 (Exhibit of Premiums and Losses) line 2.2 in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Code [215 ILCS 5/136];
 - 4) Forty percent (40%) of Farmowners M.P. direct premium as reported on page 15 (Exhibit of Premiums and Losses) line 3 in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Code [215 ILCS 5/136];
 - 5) Forty percent (40%) of the sum of Homeowners M.P. direct premium as reported on page 15 (Exhibit of Premiums and Losses) line 4 in the 1997 Annual Statement, as hereafter amended, filed pursuant

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- to Section 136 of the Code [215 ILCS 5/136] less any Illinois Fair Plan premium;
- 6) Forty percent (40%) of Commercial M.P. (Non-liability) direct premium as reported on page 15 (Exhibit of Premiums and Losses) line 5.1 in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Code [215 ILCS 5/136];
- 7) Fifteen percent (15%) of Ocean Marine direct premium as reported on page 15 (Exhibit of Premiums and Losses) line 8 in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Code [215 ILCS 5/136];
- 8) Fifteen percent (15%) of Inland Marine direct premium as reported on page 15 (Exhibit of Premiums and Losses) line 9 in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Code [215 ILCS 5/136];
- 9) Twenty-five percent (25%) of Earthquake direct premium as reported on page 15 (Exhibit of Premiums and Losses) line 12 in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Code [215 ILCS 5/136];
- 10) Five percent (5%) of Private Passenger (Automobile Physical Damage) direct premium as reported on page 15 (Exhibit of Premiums and Losses) line 21.1 in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Code [215 ILCS 5/136];
- 11) Five percent (5%) of Commercial (Automobile Physical Damage) direct premium as reported on page 15 (Exhibit of Premiums and Losses) line 21.2 in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Code [215 ILCS 5/136]; and
- 12) Ten percent (10%) of Aircraft (All Perils) direct premium as reported on page 15 (Exhibit of Premiums and Losses) line 22 in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Code [215 ILCS 5/136].
- b) The total taxable premium for a year is calculated for Farm Mutuals by totaling the direct premium for the lines of business as determined in subsection (a) of this Section and reported to the Department pursuant to Section 13 of the Farm Mutual Insurance Company Act of 1986 [215 ILCS 120/13].
- c) The total taxable premium for a year is calculated for the Illinois Fair Plan by totaling the direct premium for the lines of business as determined in subsection (a) of this Section and reported to the Department pursuant to Section 143.25 of the Code [215 ILCS 5/143.25].
- d) The total taxable premium for a year is calculated for surplus line producers by totaling the direct premium for the lines of business as determined in subsection (a) of this Section and reported to the Department pursuant to Section 445 of the Code [215 ILCS 5/445].
- e) The Annual State Fire Marshal Tax as calculated in this Section may be reduced by any overpayment from the prior year as long as there has been a credit letter issued by the Department pursuant to 50 Ill. Adm.

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Code 2525.60 and a copy is attached to the Annual State Fire Marshal Tax return in which the reduction is taken.

f) The adoption of this Part does not provide for the amendment or alteration of the stated percentage applicable for each type of premium.

Section 2520.60 Payment Schedule for the State Fire Marshal Tax

The Annual State Fire Marshal Tax owed pursuant to Section 12 of the Fire Investigation Act [425 ILCS 25/12] for any calendar year is due in March of the following year, but no later than March 31 of the following year. Failure to file a return, even if no tax is owed, or to make a timely payment will subject the company to penalties pursuant to Section 2520.80 of this Part. Payments shall be made in accordance with 50 Ill. Adm. Code 2500.70(b).

Section 2520.70 State Fire Marshal Tax Return Filing Requirements

The Annual State Fire Marshal Tax shall be submitted on a form similar to the format found in Illustration A of this Part that includes the same information contained in Illustration A of this Part together with a copy of page 15 (Exhibit of Premiums and Losses) from the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Code [215 ILCS 5/136], if being filed by an insurance company, or if being filed by the Illinois Fair Plan, Farm Mutuals, and surplus line producers, the annual statements or reports, if any, filed with the Department.

Section 2520.80 Civil Penalties and Interest

The failure of a company, the Illinois Fair Plan or a surplus line producer to file a tax return, even if no tax is owed, or to make a timely payment for the previous calendar year's tax, shall subject it to the penalty and interest provisions set forth in Section 412 of the Code [215 ILCS 5/412] and assessed pursuant to 50 Ill. Adm. Code 2525.100(a).

Section 2520.90 Hearings

Any person or company required to pay a State Fire Marshal Tax pursuant to this Part may request a hearing to be held for the purposes of determining if the assessed tax is appropriate. The hearing request shall be made pursuant to 50 Ill. Adm. Code 2500.50 and shall be made on the grounds set forth in Section 412 of the Code [215 ILCS 5/412], a mistake of fact, an error in calculation or an erroneous interpretation of a statute of this or any other state, and such request will only be granted based on those grounds.

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Section 2520. ILLUSTRATION A Annual State Fire Marshal Tax Return

Name of Company _____ FEIN _____

For the year ending the last day of December, _____ as required by 425 ILCS 25/12.

Illinois State Fire Marshal Tax Worksheet Must Be Completed First

1. Net amount of taxable premiums from Worksheet Line 13 \$ _____
2. Tax Due (1% of Line 1) \$ _____
3. State Fire Marshal Tax Credit (deduct prior year \$ _____ overpayment; attach copy of credit letter)
4. Amount of tax paid (subtract Line 3 from Line 2) \$ _____
5. Penalty for failure to file tax statement (\$200/month or 5% of tax, whichever is greater) \$ _____
6. Penalty for failure to pay tax (5% of tax due) \$ _____
7. Interest on tax paid after due date (IRS rate during tax period, 12% minimum) \$ _____
8. Total penalty and interest (add Lines 5 through 7) \$ _____
9. Balance due (Line 4 plus Line 8) \$ _____

A separate check is requested for each company of an insurance group and for each tax or fee. You must complete and return this statement, even if no tax is due.

The undersigned President and Secretary of the _____ Insurance Company, being duly sworn upon their oaths, say that the foregoing report and the statements contained therein and each and every one of them are true and correct.

Secretary's signature _____ Date _____
Subscribed and sworn to before me this _____ day of _____,

Notary Public _____ Contact Person _____

My commission expires _____ Phone: _____
Remittance should be made payable to Director of Insurance and mailed with the completed tax statement form to attention: Tax and Fiscal Services Section, Illinois Department of Insurance, 320 West Washington Street, Springfield, Illinois, 62767-0001.

Important Notice: Disclosure of this information is required under the Illinois Compiled Statutes' insurance laws. Failure to provide this information could result in a fine.

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Illinois State Fire Marshal Tax Worksheet

FEIN: _____

Name of Company _____

Line	Street and Number	City	State	Zip Code	Net Direct Premium	Illinois Fair	Percentage Taxable
Business & Corresponding Line from Page 15, Annual Statement					(Col. 2 less Col. 4, Plan Premiums Page 15)	Applicable Premium	
Fire *	1.	_____	Less _____	_____	100%	_____	1.
Allied Lines *	2.1	_____	Less _____	_____	25%	_____	2.
Multiple Peril Crop	2.2	_____	_____	_____	1%	_____	3.
Farmowners M.P.	3.	_____	_____	_____	40%	_____	4.
Homeowners M.P. *	4.	_____	Less _____	_____	40%	_____	5.
Commercial M.P. (non-liability)	5.1	_____	_____	_____	40%	_____	6.
Ocean Marine	8.	_____	_____	_____	15%	_____	7.
Inland Marine	9.	_____	_____	_____	15%	_____	8.
Earthquake	12.	_____	_____	_____	25%	_____	9.
Private Pass. Auto P/Dam TOTAL	21.1	_____	_____	_____	5%	_____	10.
Commercial Auto P/Dam TOTAL	21.2	_____	_____	_____	5%	_____	11.
Aircraft (All Perils)	22.	_____	_____	_____	10%	_____	12.
Total Taxable Premiums (Carry forward to line 1 of the Annual Return)							13.

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State Fire Marshal Tax Rate..... \$ _____ 14.

State Fire Marshal Tax (Carry forward to line 2 of the Annual Return)..... \$ _____ 15.

*Do not include the FAIR Plan as your company direct premium written. The FAIR Plan will pay the State Fire Marshal Tax on these premiums.

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1) Heading of the Part: Fees and Charges

2) Code Citation: 50 Ill. Adm. Code 2505

3) <u>Section Numbers:</u>	<u>Adopted Action:</u>
2505.10	New Section
2505.20	New Section
2505.30	New Section
2505.40	New Section
2505.50	New Section
2505.60	New Section
2505.70	New Section
2505.80	New Section
2505.90	New Section
2505.100	New Section
2505.110	New Section
2505.120	New Section
ILLUSTRATION A	New Section
ILLUSTRATION B	New Section

4) Statutory Authority: Implementing Section 408 and authorized by Sections 401 and 409(5) of the Illinois Insurance Code [215 ILCS 5/401, 408 and 409(5)](see P.A. 90-583, effective May 29, 1998).

5) Effective Date of Rules: December 21, 1998

6) Does this rule contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? Yes. Please see Section 2505.60(b) and 2505.90(a) of this Part.

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: September 25, 1998, 22 Ill. Reg. 16936

10) Has JCAR issued a Statement of Objections to this Rule? No

11) Difference(s) between proposal and final version:

a) Section 2505.40 delete "the Illinois Insurance Code [215 ILCS 5/1 through 165/30]" and add "any of the Acts in Chapter 215 of the Illinois Compiled Statutes" in lieu thereof.

b) Section 2505.60(b) and Section 2505.90(a), change "of the Code" to "of the Code".

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c) Section 2505.70, add "either" following "by" on the third line.

d) Section 2505.70(c)(1), delete "By" and add "On or before" on the first line in lieu thereof.

e) Section 2505.70(c)(1), add "domestic" following "one" on the fourth line.

f) Section 2505.70(c)(1), add "domestic" following "entire" also on the fourth line.

g) Section 2505.80(b)(1), delete "By" and add "On or before" on the first line in lieu thereof.

h) Section 2505.80(b)(1), add "foreign or alien" following "one" on the fourth line.

i) Section 2505.80(b)(1), add "foreign or alien" following "entire" also on the fourth line.

j) Section 2505.80(b)(3), add "foreign or alien" following "individual" three lines up from the bottom.

k) Section 2505.80(b)(3), delete "for the" and add "by that foreign or alien" on the last line in lieu thereof.

l) Section 2505.80(d), change "The" to "A" and add ", and foreign or alien companies who are part of an affiliated group which is not proceeding pursuant to subsection (b) of this Section," following "company" on the first line. Also add "each" following "must".

m) Section 2505.90, add a period following "(b) of this Section" on the seventh line.

n) Section 2505.90 add "However," ahead of "if" and change "no" to "a" on the eighth line.

o) Section 2505.90, add ", there will be no per diem expense assessed" following "company" on the last line of the introductory paragraph.

p) Section 2505.90(a), change "5/132" to "5/132.1" on the sixth line.

q) Section 2505.90(a), change "C.F.R." to "CFR" on the eighth line.

r) Section 2505.100, delete "receipt of" on the second line.

s) Section 2505.100, add "date of the" following "the" on the third line.

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- t) Section 2505.100, delete "payment" and change "made" to "paid" on the fourth line.
- u) Section 2505.110, delete "such" on the fourth line.
- v) Section 2505.120, delete "A request for hearing shall be made pursuant to the" and add "The hearing request shall be made pursuant to 50 Ill. Adm. Code 2500.50 and shall be based on those" on the fourth line in lieu thereof.
- w) Section 2505.111, delete "domestic" following "designate a" on the last line.
- x) Section 2505.112, delete "foreign or alien" following "designate a" on the last line.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rule replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No

15) Summary and Purpose of rulemaking: This Part sets forth the fees and charges that are collected pursuant to Section 408 of the Illinois Insurance Code [215 ILCS 5/408] and establishes certain processes for how those fees and charges are to be calculated. Furthermore, this Part establishes the penalties that could be assessed for failure to pay, or to make payment on time. This Part also contains two illustrations which demonstrate how affiliated groups are to calculate their financial regulation fees.

- 16) Information and questions regarding this adopted rule shall be directed to:

Chuck Feinen
Staff Attorney
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
217/557-1396

The full text of the Adopted Rules begins on the next page.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ee: FEES, CHARGES AND TAXES

PART 2505

FEES AND CHARGES

Section	Purpose
2505.10	Applicability
2505.20	Severability
2505.30	Definitions
2505.40	Fees and Charges
2505.50	Performance (Market Conduct) Examination Expenses and Fees
2505.60	Financial Regulation Fee for Domestic Companies
2505.70	Financial Regulation Fee for Foreign and Alien Companies
2505.80	Financial Examination Expenses and Fees
2505.90	Payment Due Date of Fees and Charges
2505.100	Civil Penalties and Interest
2505.110	Hearings
2505.120	Calculation of Financial Regulation Fee for Affiliated Domestic Companies

ILLUSTRATION A	Calculation of Financial Regulation Fee for Affiliated Domestic Companies
ILLUSTRATION B	Calculation of Financial Regulation Fee for Affiliated Foreign or Alien Companies

AUTHORITY: Implementing Section 408 and authorized by Sections 401 and 409(5) of the Illinois Insurance Code [215 ILCS 5/401, 408 and 409(5)] (see P.A. 90-583, effective May 29, 1998).

SOURCE: Adopted at 23 Ill. Reg. **279**, effective

Section 2505.10 Purpose

This Part sets forth certain procedural requirements and the fees and charges collected from domestic, foreign and alien insurance companies pursuant to Section 408 of the Illinois Insurance Code [215 ILCS 5/408] (see P.A. 90-583, effective May 29, 1998).

Section 2505.20 Applicability

This Part applies to any person or company conducting or transacting any of the actions addressed by Section 408 of the Illinois Insurance Code in which a fee or charge can be assessed by the Director of the Department of Insurance [215 ILCS 5/408] (see P.A. 90-583, effective May 29, 1998).

Section 2505.30 Severability

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If any Section, subsection, paragraph, sentence, clause, or phrase of this Part is declared invalid for any reason, the remaining portions of this Part that are severable from the invalid portion shall remain in full force and effect. If any portion of this Part is declared invalid in one or more of its applications, the remaining portion shall be severable and in effect in all valid applications.

Section 2505.40 Definitions

Except as stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall be the same as those used in 50 Ill. Adm. Code 2500.40 or in any of the Acts in Chapter 215 of the Illinois Compiled Statutes.

Section 2505.50 Fees and Charges

The Director shall charge and collect the payment of fees and charges pursuant to Section 408(1) of the Code [215 ILCS 5/408(1)], and payment shall be made in accordance with 50 Ill. Adm. Code 2500.70(a).

Section 2505.60 Performance (Market Conduct) Examination Expenses and Fees

The Director may charge the expenses incurred in any performance examination authorized by law to be paid by the company or person being examined pursuant to Section 408(3) of the Code [215 ILCS 5/408(3)]. The Director may charge, but is not limited to:

- a) A per diem charge of \$175 per examiner for examinations pursuant to Section 408(3) of the Code [215 ILCS 5/408(3)] plus lodging and travel expenses, as assessed pursuant to subsection (b) of this Section.
- b) The travel and lodging expenses shall be calculated in accordance with the applicable travel regulations as published by the Department of Central Management Services and approved by the Governor's Travel Control Board, except that out-of-state lodging and travel expenses related to examinations authorized under Section 132 of the Code [215 ILCS 5/132] shall be in accordance with travel rates prescribed under paragraph 301-7.2 of the Federal Travel Regulations, 41 CFR 301-7.2 for reimbursement of subsistence expenses incurred during official travel [215 ILCS 5/408(3)].

Section 2505.70 Financial Regulation Fee for Domestic Companies

An annual financial regulation fee shall be charged and collected from every domestic company for examination and analysis of its financial condition. The fee shall be the greater of the amount assessed by either subsection (a) of this Section based on the combination of nationwide direct premium income and nationwide reinsurance assumed income of the domestic company, or by subsection (b) of this Section based on admitted assets.

- a) If the nationwide direct premium income of the domestic company is:

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- 1) Less than \$500,000 and there is no reinsurance assumed premium, the fee is \$100;
 - 2) \$500,000 or more, but less than \$5,000,000 and there is no reinsurance assumed premium; or if the nationwide direct premium is less than \$5,000,000 and the reinsurance assumed premium is less than \$10,000,000, the fee is \$500;
 - 3) Less than \$10,000,000, the fee is \$2,500;
 - 4) \$10,000,000 or more, the fee is \$25,000;
 - 5) \$50,000,000 or more, but less than \$100,000,000, the fee is \$10,000,000 or more, but less than \$25,000,000, the fee is \$12,000;
 - 6) \$25,000,000 or more, but less than \$50,000,000, the fee is \$15,000;
 - 7) \$50,000,000 or more, but less than \$100,000,000, the fee is \$20,000; or
 - 8) \$100,000,000 or more, the fee is \$25,000.
- b) If the admitted assets, as defined by Section 3.1 of the Code [215 ILCS 5/3.1], of the domestic company are:
- 1) Less than \$1,000,000, the fee is \$100;
 - 2) \$1,000,000 or more, but less than \$5,000,000, the fee is \$500;
 - 3) \$5,000,000 or more, but less than \$25,000,000, the fee is \$2,500;
 - 4) \$25,000,000 or more, but less than \$50,000,000, the fee is \$5,000;
 - 5) \$50,000,000 or more, but less than \$100,000,000, the fee is \$12,000;
 - 6) \$100,000 or more, but less than \$500,000,000, the fee is \$15,000;
 - 7) \$500,000,000 or more, but less than \$1,000,000,000, the fee is \$20,000; or
 - 8) \$1,000,000,000 or more, the fee is \$25,000.
- c) The sum of financial regulation fees in any single calendar year charged to domestic companies of the same affiliated group shall not exceed \$100,000, in the aggregate, as calculated pursuant to subsection (c)(2) of this Section.

- 1) On or before April 1st of every calendar year every affiliated group must notify the Department in writing to the attention of the Tax and Fiscal Section that the affiliated group intends to utilize this Section and must designate one domestic member to be billed by the Director for the entire domestic affiliated group's financial regulation fee.
- 2) The sum of the financial regulation fees, in the aggregate, shall be calculated by totaling the amount of financial regulation fees paid by the domestic companies of the same affiliated group. No financial regulation fee paid by a foreign or alien company of the same affiliated group shall be included in the aggregate amount of the affiliated group's domestic companies' aggregate sum. Illustration A of this Part is an example of this calculation.

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- d) The financial regulation fee is due upon receipt of the Department's invoice and must be paid no later than June 30th of each calendar year.
- e) The domestic company must include the Department's invoice, if applicable, and make payment pursuant to 50 Ill. Adm. Code 2500.70(a).

Section 2505.80 Financial Regulation Fee for Foreign and Alien Companies

An annual financial regulation fee shall be charged and collected from every foreign or alien company, except fraternal benefit societies, for the examination and analysis of its financial condition. *The fee shall be a fixed amount based upon the Illinois direct premium income and nationwide reinsurance assumed premium income in accordance with the following schedule* [215 ILCS 5/408(7)]:

- a) If the Illinois direct premium is:
- 1) Less than \$500,000 and there is no reinsurance assumed premium, the fee is \$100;
 - 2) \$500,000 or more, but less than \$5,000,000 and there is no reinsurance assumed premium; or if the Illinois direct premium is less than \$5,000,000 and the reinsurance assumed premium is less than \$10,000,000, the fee is \$500;
 - 3) Less than \$5,000,000 and the reinsurance assumed premium is \$10,000,000 or more, the fee is \$2,500;
 - 4) \$5,000,000 or more, but less than \$10,000,000, the fee is \$5,000;
 - 5) \$10,000,000 or more, but less than \$25,000,000, the fee is \$12,000;
 - 6) \$25,000,000 or more, but less than \$50,000,000, the fee is \$15,000;
 - 7) \$50,000,000 or more, but less than \$100,000,000, the fee is \$20,000; or
 - 8) \$100,000,000 or more, the fee is \$25,000.
- b) The sum of financial regulation fees in any single calendar year charged to foreign or alien companies within the same affiliated group shall not exceed \$100,000, in the aggregate, as calculated in subsection (b)(2) of this Section.

- 1) On or before April 1st of every calendar year every affiliated group must notify the Department in writing to the attention of the Tax and Fiscal Section that the affiliated group intends to utilize this Section and must designate one foreign or alien member of the group to be billed by the Director for the entire foreign or alien affiliated group's financial regulation fee.
- 2) The sum of the financial regulation fees, in the aggregate, shall be calculated by totaling the amount of financial regulation fees paid by the foreign or alien companies of the same affiliated group. No financial regulation fee paid by a domestic company of the same affiliated group shall be included in the aggregate amount of the affiliated group's foreign or alien companies' aggregate sum. Illustration B of this Part is an example of this

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calculation.

- 3) For purposes of calculating the retaliatory tax pursuant to 50 Ill. Adm. Code 2515, the foreign or alien affiliated group's financial regulation fee shall be allocated by determining the sum of the foreign or alien affiliated group's Illinois direct premiums by totaling each of the affiliated group's individual foreign or alien company's Illinois direct premiums. Do not include any domestic company's Illinois direct premium of the same affiliated group when determining the sum of the foreign or alien affiliated group's Illinois direct premiums. Divide the individual foreign or alien company's Illinois direct premiums by the sum of the foreign or alien affiliated group's Illinois direct premiums to determine that individual foreign or alien company's financial regulation fee allocation percentage. Multiply that individual foreign or alien company's allocation percentage by \$100,000 to determine the financial regulation fee paid by that foreign or alien company.
- c) The financial regulation fee is due upon receipt of the Department's invoice and must be paid no later than June 30th of each calendar year [215 ILCS 5/408(8)].
- d) A foreign or alien company, and foreign or alien companies who are part of an affiliated group which is not proceeding pursuant to subsection (b) of this Section, must each include the Department's invoice, if applicable, and make payment pursuant to 50 Ill. Adm. Code 2500.70(a).

Section 2505.90 Financial Examination Expenses and Fees

In addition to any financial regulation fee assessed pursuant to Sections 2505.70 and 2505.80 of this Part, the Director may charge the following costs and expenses incurred by the Department related to a financial examination: electronic data processing costs, the expenses authorized under Sections 131.21 and 132.4(d) of the Code [215 ILCS 5/131.21 and 132.4(d)], lodging and travel expenses pursuant to subsection (a) of this Section, and a per diem expense pursuant to subsection (b) of this Section. However, if a financial regulation fee is paid pursuant to Sections 2505.70 and 2505.80 of this Part by the company, there will be no diem expense assessed.

- a) The travel and lodging expenses shall be calculated in accordance with the applicable travel regulations as published by the Department of Central Management Services and approved by the Governor's Travel Control Board, except that out-of-state lodging and travel expenses related to examinations authorized under Sections 132.1 through 132.7 of the Code [215 ILCS 5/132.1 through 132.7] shall be in accordance with travel rates prescribed under paragraph 301-7.2 of the federal Travel Regulations, 41 CFR 301-7.2, for reimbursement of subsistence expenses incurred during official travel [215 ILCS 5/408(9)].
- b) The per diem charge shall be \$225 per examiner.

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Section 2505.100 Payment Due Date of Fees and Charges

Any fee or charge assessed pursuant to this Part, in which a payment due date has not been established, must be paid within 30 days after the date of the Department's invoice and must meet any filing requirements set forth by this Part, and must be paid pursuant to 50 Ill. Adm. Code 2500.70(a).

Section 2505.110 Civil Penalties and Interest

Any company, person, or entity failing to make any payment of \$100 or more as required under Section 408 of the Code [215 ILCS 5/408], or this Part, shall be subject to the penalty and interest provisions of Section 412(4) and (7) of the Code [215 ILCS 5/412(4) and (7)] and will be assessed penalties pursuant to 50 Ill. Adm. Code 2525.100(b).

Section 2505.120 Hearings

Any person or company required to pay a fee or charge pursuant to this Section may request a hearing to be held for the purposes of determining if the assessed fee or charge is appropriate. The hearing request shall be made pursuant to 50 Ill. Adm. Code 2500.50 and shall be based on the grounds set forth in Section 412 of the Code [215 ILCS 5/412], a mistake of fact, an error in calculation or an erroneous interpretation of a statute of this or any other state, and such request will only be granted based on those grounds.

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Section 2505.130 Calculation of Financial Regulation Fee for Affiliated Domestic Companies

The following insurance companies are part of an affiliated group:

Company A is a domestic life company that owes a financial regulation fee of	\$20,000
Company B is a domestic property and casualty company that owes a financial regulation fee of	\$25,000
Company C is a domestic property and casualty company that owes a financial regulation fee of	\$20,000
Company D is a domestic mutual property and casualty company that owes a financial regulation fee of	\$25,000
Company E is a domestic mutual life company that owes a financial regulation fee of	\$25,000
Company F is a foreign life company with a financial regulation fee of	\$15,000

Pursuant to Section 2505.70(c)(2) of this Part, the domestic companies, in this example, companies A, B, C, D, and E, would total their financial regulation fees owed to determine if the amount of the domestic affiliated group's members' financial regulation fees are over \$100,000. If the amount is over \$100,000 the affiliated group must notify the Department by April 1 that it will be filing pursuant to Section 2505.70(c) of this Part and designate a domestic member to pay the \$100,000 financial regulation fee.

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Section 2505. ILLUSTRATION B Calculation of Financial Regulation Fee for Affiliated Foreign or Alien Companies

The following insurance companies are part of an affiliated group:

Company A is a foreign life company that owes a financial regulation fee of	\$20,000
Company B is a foreign property and casualty company that owes a financial regulation fee of	\$25,000
Company C is a foreign property and casualty company that owes a financial regulation fee of	\$20,000
Company D is a foreign mutual property and casualty company that owes a financial regulation fee of	\$25,000
Company E is a foreign mutual life company that owes a financial regulation fee of	\$25,000
Company F is a domestic life company with a financial regulation fee of	\$15,000

Pursuant to Section 2505.80(b)(2) of this Part, the foreign companies, in this example, companies A, B, C, D, and E, would total their financial regulation fees owed to determine if the amount of the foreign affiliated group's members' financial regulation fees are over \$100,000. If the amount is over \$100,000 the affiliated group must notify the Department by April 1 that it will be filing pursuant to Section 2505.80(b) of this Part and designate a foreign or alien member to pay the \$100,000 financial regulation fee.

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: General Provisions
- 2) Code Citation: 50 Ill. Adm. Code 2500
- 3) Section Number: Adopted Action:
2500.10 New Section
2500.20 New Section
2500.30 New Section
2500.40 New Section
2500.50 New Section
2500.60 New Section
2500.70 New Section
2500.80 New Section
- 4) Statutory Authority: Implementing Sections 408, 409, 444 and 444.1 and authorized by Sections 401 and 409(5) of the Illinois Insurance Code [215 ILCS 5/401, 408, 409, 409(5), 444 and 444.1] (see P.A. 90-583, effective May 29, 1998) and Section 12 of the Fire Investigation Act [425 ILCS 25/12].
- 5) Effective Date of Rules: December 21, 1998
- 6) Does this rule contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 25, 1998, 22 Ill. Reg. 16946
- 10) Has JCAR issued a Statement of Objections to this rule? No
- 11) Difference(s) between proposal and final version:
 - a) In the main authority note change "Sections" to "Section" and delete "and 13" twice.
 - b) Section 2500.20, change "Sections" to "Section" on the last line and delete "and 13" twice.
 - c) Section 2500.40, on the last line of the introductory paragraph, delete "the Illinois Insurance Code [215 ILCS 5/1 through 165/30]" and add "any of the Acts in Chapter 215 of the Illinois Compiled Statutes" in lieu thereof.

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- d) Section 2500.40, add "Annual Return or Return means the information filed pursuant to 50 Ill. Adm. Code 2510.90, 2515.80 or 2520.70 and Section 410 of the Illinois Insurance Code [215 ILCS 5/410]."
- e) Section 2500.40, move the definition of "Association Captive Insurance Company" up in alphabetical order. Delete "either" following "risks of" and delete "or".
- f) Section 2500.40, move the definition of "Company" up in alphabetical order.
- g) Section 2500.40, add "Corporate Income Tax means the income tax assessed against corporations pursuant to Section 201(a) and (b) of the Illinois Income Tax Act [35 ILCS 5/201(a) and (b)]."
- h) Section 2500.40, in the definition of "Domestic Company", change "or" to "and" on the second to the last line.
- i) Section 2500.40, in the definition of "Illinois Life and Health Guaranty Association", delete "Illinois Insurance" on the last line.
- j) Section 2500.40, in the definition of "Life and Health Guaranty Association assessment", change "assessment" to "Assessment".
- k) Section 2500.40, in the definition of "Pure Captive Insurance Company", change "5/123c-1(l)." to "5/123c-1(l)]." on the last line.
- l) Section 2500.40, add "Quarterly Statement means the information filed pursuant to 50 Ill. Adm. Code 2510. Illustration C, 2515.80 and Section 410 of the Code [215 ILCS 5/410]."
- m) Section 2500.40, in the definition of "Religious and Charitable Risk Pooling Trust", change "1954" to "1986". Also add "which" following "and" on this same line.
- n) Section 2500.40, add "Replacement Income Tax means the income tax assessed against corporations pursuant to Section 201(c) and (d) of the Illinois Income Tax Act [35 ILCS 5/201(c) and (d)]."
- o) Section 2500.40, in the definition of "State Fire Marshal Tax", change "Sections" to "Section" and delete "and 13" twice.
- p) Section 2500.40, in the definition of "Statutory Residual Market Entity", add "Illinois" ahead of "Mine" and also add "Insurance" following "Subsidence" on the third line.
- q) Section 2500.40, in the definition of "Voluntary Health Service Plan" change "relating" to "related" on the second line.

DEPARTMENT OF INSURANCE

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- r) Section 2500.50(b)(1)(A), add "corporate and/or replacement" following "year's".
- s) Section 2500.50(b)(3) and (b)(3)(A), delete "or regulation".
- t) Section 2500.50(b)(3)(A), change "the to "a", add "and" following the semicolon and change "the" to "a" on the last line.
- u) Section 2500.60(a), delete the comma following "done" and change "the" to "a" on the second line. Also delete the comma following "date" on this same line.
- v) Section 2500.60(b), add a comma following "Code" on the last line.
- w) Section 2500.60(b)(1), add "(noon)" following "12:00 p.m.". Also add "Documents received by the Department after 12:00 p.m. (noon) on the due date will not be considered late." at the end of this subparagraph.
- x) Section 2500.70(a) and (b), add ", or other payment method approved by the Director," following "check".
- y) Section 2500.80(b), delete the comma following "ee".
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No. The Department did not agree to make the changes indicated under number three and four of the Second Notice Changes document.
- 13) Will this rule replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: This Part has five main purposes concerning the payment of fees, charges and taxes collected by the State pursuant to Sections 408, 409, 444, and 444.1 of the Illinois Insurance Code [215 ILCS 5/408, 409, 444 and 444.1] and Section 12 of the Fire Code [215 ILCS 5/12]. These purposes are to define the terms used, establish mathematical calculations to be used in the different parts of 50 Ill. Adm. Code Subchapter ee, provide the acceptable form of payment of fees, charges and taxes owed, and to set forth the process by which a company may request a hearing, how the hearing is to be conducted, and establish how to compute the time periods used in 50 Ill. Adm. Code Subchapter ee and when a filing will be considered "filed" by the Department.
- 16) Information and questions regarding this adopted rule shall be directed to:

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

Chuck Feinen
Staff Attorney
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 557-1396

The full text of the Adopted Rules begins on the next page.

ILLINOIS REGISTER

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ee: FEES, CHARGES AND TAXES

PART 2500
GENERAL PROVISIONS

Section

Purpose	
2500.10	Purpose
2500.20	Applicability
2500.30	Severability
2500.40	Definitions
2500.50	Hearings
2500.60	Computation of Time and Time of Filing
2500.70	Form of Payment
2500.80	Calculation Guidelines

AUTHORITY: Implementing Sections 408, 409, 444 and 444.1 and authorized by Sections 401 and 409(5) of the Illinois Insurance Code [215 ILCS 5/401, 408, 409, 409(5), 444 and 444.1] (see P.A. 90-583, effective May 29, 1998) and Section 12 of the Fire Investigation Act [425 ILCS 25/12].

SOURCE: Adopted at 22 Ill. Reg. 290 effective

DEC 21 1998

Section 2500.10 Purpose

This Part sets forth certain procedural requirements for hearings, filing requirements, definitions, and calculation guidelines concerning 50 Ill. Adm. Code, Subchapter ee Fees, Charges and Taxes.

Section 2500.20 Applicability

This Part applies to any person or company conducting or transacting any of the actions assessed a fee pursuant to Section 408 of the Illinois Insurance Code, or a tax pursuant to Sections 409, 444 and 444.1 of the Illinois Insurance Code [215 ILCS 5/408, 409, 444 and 444.1] (see P.A. 90-583, effective May 29, 1998) and Section 12 of the Fire Investigation Act [425 ILCS 25/12].

Section 2500.30 Severability

If any Section, subsection, paragraph, sentence, clause, or phrase of this Part is declared invalid for any reason, the remaining portions of this Part that are severable from the invalid portion shall remain in full force and effect. If any portion of this Part is declared invalid in one or more of its applications, the remaining portion shall be severable and in effect in all valid applications.

DEPARTMENT OF INSURANCE
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Section 2500.40 Definitions

Except as stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part which are not defined below shall be the same as those used in any of the Acts in Chapter 215 of the Illinois Compiled Statutes.

Accident and Health Insurance means insurance against bodily injury, disablement or death by accident and against disablement resulting from sickness or old age and every insurance appertaining thereto, including stop-loss insurance covering such risks [215 ILCS 5/4(b)].

Affiliated Group means a group of companies affiliated, as of the preceding calendar year end, pursuant to Article VIII 1/2 entitled Insurance Holding Company Systems [215 ILCS 5/131.1 through 131.28].

Alien Company means a company which is incorporated or organized under the laws of any country other than the United States [215 ILCS 5/408(12)(c)].

Annual Return or Return means the information filed pursuant to 50 Ill. Adm. Code 2510.90, 2515.80 or 2520.70 and Section 410 of the Illinois Insurance Code [215 ILCS 5/410].

Articles of Incorporation means the basic instrument of an incorporated company and all amendments thereto and includes "Charter," "Articles of Organization," "Articles of Reorganization," "Articles of Association," and "Deed of Settlement" [215 ILCS 5/2(p)].

Assessment Legal Reserve Life Company means a life insurance company issuing contracts providing for contingent liability on the policyholder [215 ILCS 5/2(j)].

Association Captive Insurance Company means any company that insures risks of the member organizations of an association and their affiliated companies [215 ILCS 5/123C-1(C)].

Burial Society means a person, firm, corporation, society or association of individuals authorized by the Director to do business in this State under the provisions of Article XIX of the Illinois Insurance Code [215 ILCS 5/408(12)(f)].

Check means corporation check, money order or cashier's check.

Code means the Illinois Insurance Code.

Company means an insurance or surety company and shall be deemed to include a corporation, company, partnership, association, society,

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organization, order, Risk Retention Group, individual or aggregation of individuals engaging in or proposing or attempting to engage in any kind of insurance or surety business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships and corporations [215 ILCS 5/2(e)].

Corporate Income Tax means the income tax assessed against corporations pursuant to Section 201(a) and (b) of the Illinois Income Tax Act [35 ILCS 5/201(a) and (b)].

Country or Foreign Country means a state, province or political subdivision thereof [215 ILCS 5/2(d)].

Dental Service Plan means a plan or system under which dental service may be rendered to a subscriber or other beneficiary by a duly licensed dentist, at the expense of a dental service plan corporation, in consideration of prepayments made by or on behalf of a subscriber prior to the occurrence of the condition requiring dental service [215 ILCS 110/4].

Department means the Department of Insurance [215 ILCS 5/2(b)].

Director means the Director of Insurance [215 ILCS 5/2(a)].

Domestic Company means a company which is incorporated or organized under the laws of this State, and in addition includes a not-for-profit corporation authorized under the Dental or Voluntary Health Service Plan Acts, and a health maintenance organization and a limited health service organization [215 ILCS 5/408(12)(a)].

Domestic Surplus Line Insurer means any company as defined in Section 445a of the Code [215 ILCS 5/445a].

Farm Mutual means a district, county and township mutual insurance company authorized by the Director to do business in this State under the provisions of the Farm Mutual Insurance Company Act of 1986 [215 ILCS 5/408(12)(g)].

Foreign Company means a company which is incorporated or organized under the laws of any state of the United States other than this State and in addition includes a health maintenance organization or a limited health service organization which is incorporated or organized under the laws of any state of the United States other than this State [215 ILCS 5/408(12)(b)].

Fraternal Benefit Society means a corporation, society, order, lodge or voluntary association as defined in Section 282.1 of the Code [215 ILCS 5/282.1]. [215 ILCS 5/408(12)(d)]

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Group Workers' Compensation Self-insurance Pooling Trust means any group organized pursuant to Section 4a of the Workers' Compensation Act [820 ILCS 305/4a].

Health Maintenance Organization means any organization formed under the laws of this or another state to provide or arrange for one or more health care plans under a system which causes any part of the risk of health care delivery to be borne by the organization or its providers [215 ILCS 125/1-2].

Illinois Fair Plan means the basic property insurance pursuant to Section 522 of the Code [215 ILCS 5/522].

Illinois Guaranty Fund means the guaranty fund established pursuant to Article XXXIV of the Code [215 ILCS 5/532 through 533].

Illinois Insurance Exchange (INEX Insurance Exchange) means the non-profit corporation organized pursuant to Section 107.26 of the Code [215 ILCS 5/107.26].

Illinois Life and Health Guaranty Association means the guaranty association established pursuant to Article XXXIII 1/2 of the Code [215 ILCS 5/531.01 through 531.19].

Industrial Insured Captive Insurance Company means any company that insures risks of industrial insureds that are members of the industrial insured group, and their affiliated companies [215 ILCS 5/123C-1(G)].

Interstate Insurance Receivership Commission means the organization established pursuant to Article X of the Interstate Insurance Receivership Compact [45 ILCS 160/1 through 99].

Life and Health Guaranty Association Assessment means any fees assessed against members of the Illinois Life and Health Guaranty Association pursuant to Section 531.09 of the Code [215 ILCS 5/531.09].

Limited Health Service Organization means any organization formed under the laws of this or another state to provide or arrange for one or more limited health care plans under a system which causes any part of the risk of limited health care delivery to be borne by the organization or its providers [215 ILCS 130/1002].

Mutual Benefit Association means a company, association or corporation authorized by the Director to do business in this State under the provisions of Article XVIII of the Code [215 ILCS 5/408(12)(e)].

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Payor means the entity that actually pays the fee, charge and/or tax to the Department.

Person means an individual, aggregation of individuals, corporation, association and partnership [215 ILCS 5/2(1)].

Pure Captive Insurance Company means any company that insures only risks of its parent or affiliated companies or both [215 ILCS 5/123C-1(L)].

Quarterly Statement means the information filed pursuant to 50 ILL. Adm. Code 2510.111 Illustration C, 2515.80 and Section 410 of the Code [215 ILCS 5/410].

Religious and Charitable Risk Pooling Trust means any number of organizations which are all exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986 and which are organized pursuant to the Religious and Charitable Risk Pooling Trust Act [215 ILCS 150/1 through 179].

Reinsurance means that form of insurance referenced in Article XI of the Code, entitled Reinsurance [215 ILCS 5/173 through 179].

Replacement Income Tax means the income tax assessed against corporations pursuant to Section 201(c) and (d) of the Illinois Income Tax Act [35 ILCS 5/201(c) and (d)].

Risk Purchasing Group means a group formed pursuant to the provisions of the Federal Liability Risk Retention Act of 1986 and as defined in Section 123B-2(10) of the Code [215 ILCS 5/123B-2(10)].

Risk Retention Group means any corporation or association that is defined as a Risk Retention group pursuant to Section 123B-2(11) of the Code [215 ILCS 5/123B-2(11)].

Self-insurer means any person who bears a risk of loss in which such person has and maintains an insurable interest without sharing such risk of loss with any party who has no insurable interest in the subject of risk.

Special Purpose Entity means the Interstate Insurance Receivership Commission, Illinois Guaranty Fund, or Illinois Life and Health Guaranty Association.

State Fire Marshal Tax means the tax assessed pursuant to Section 12 of the Fire Investigation Act [425 ILCS 25/12].

Statutory Residual Market Entity or an entity created for similar

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purpose means insurance obtained or offered through the following: Illinois Fair Plan, Illinois Mine Subsidence Fund [215 ILCS 5/803.1], Illinois Automobile Insurance Plan, Illinois Comprehensive Health Insurance Plan [215 ILCS 150/1 through 15], and Workers' Compensation Assigned Risk Pool.

Surplus Line means insurance on an Illinois risk of the kinds specified in Classes 2 and 3 of Section 4 of the Code procured from an unauthorized company after the insurance producer representing the insured or the surplus line producer is unable, after diligent effort, to procure said insurance from companies which are authorized to transact business in this State [215 ILCS 5/445].

Surplus Line Producer means any licensed producer who is a resident of this State and has been licensed pursuant to Section 445(2) of the Code [215 ILCS 5/445(2)].

Voluntary Health Service Plan means either a plan or system under which medical, hospital, nursing and related health services may be rendered to a subscriber or beneficiary at the expense of a health services plan corporation, or any contractual arrangement to provide, either directly or through arrangements with others, dental care services to subscribers and beneficiaries [215 ILCS 165/2].

Section 2500.50 Hearings

Any person or company required to pay a fee, charge or tax pursuant to 50 Ill. Adm. Code, Subchapter ee may request a hearing to be held for the purposes of determining if the assessed fee, charge or tax is appropriate. A request for hearing must be made pursuant to the grounds set forth in Section 412 of the Code [215 ILCS 5/412] and subsection (b) of this Section. Such request will only be granted based on those grounds.

- a) A request for hearing shall be in writing and shall include:
 - 1) The name and address of the requester;
 - 2) The fee, charge or tax amount being assessed;
 - 3) Under what provision of 50 Ill. Adm. Code, Subchapter ee the fee, charge or tax is being assessed;
 - 4) The Department Invoice number, if applicable; and
 - 5) The name, address and phone number of a contact person.
- b) The grounds upon which the requester believes the amount being assessed is incorrect, which are:
 - 1) A mistake of fact including, but not limited to:
 - A) Applying a previous year's income tax overpayment in the current year's corporate and/or replacement tax return; and
 - B) Using the premium written in the state of incorporation to determine the state of incorporation's basis for retaliatory tax purposes; or
 - 2) An error in calculation including, but not limited to:

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- A) An incorrect decimal assignment; and
- B) An erroneous sum, result or total arising out of a mathematical function, operation or equation; or
- 3) An erroneous interpretation of a statute of this or any other state, including, but not limited to:
 - A) A misapplication of a statute; and
 - B) A misunderstanding of an equivocal term or phrase used in a statute.
- 4) However, an erroneous interpretation of a statute of this or any other state does not include a finding of unconstitutionality of the statute in question. Additionally, a mistake in fact shall not include the assertion that a statute is unconstitutional on its face.
- c) Any hearing held pursuant to a request meeting the requirements of this Section will be conducted pursuant to the provisions set forth at 50 Ill. Adm. Code 2402. However, if the request is made by a company, the company must be represented by an attorney licensed to practice law in the State of Illinois. The provision at 50 Ill. Adm. Code 2402.70(a)(2) does not apply to hearings held pursuant to 50 Ill. Adm. Code, Subchapter ee.

Section 2500.60 Computation of Time and Time of Filing

- a) Computation of Time. The time within which any act provided by law is to be done or a payment due date shall be computed by excluding the first day and including the last, unless the last day is a Saturday or Sunday or is a holiday as defined or fixed in any statute now or hereafter in force in this State, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday is also a holiday or a Saturday or Sunday then such succeeding day shall also be excluded.
- b) Time of Filing. Documents shall be considered filed or received, as set forth in subsections (b)(1) and (2) of this Section, when they are in conformance with the requirements of this Part and any other filing requirements specifically set out in the other Parts of 50 Ill. Adm. Code, Subchapter ee.
 - 1) If filed in person, by messenger service or mail delivery other than U.S. Postal Service, documents are considered filed when they are received by the Department. Documents received by the Department after 12:00 p.m. (noon) shall be considered received on the following business day. Documents received by the Department after 12:00 p.m. (noon) on the due date will not be considered late.
 - 2) If filed by U.S. Mail, documents are deemed filed as of the date of the U.S. postmark.

Section 2500.70 Form of Payment

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- a) The payment of fees or charges shall be made by separate check, or other payment method approved by the Director, for each invoice issued by the Department pursuant to Section 408 of the Code [215 ILCS 5/408] and 50 Ill. Adm. Code 2505.
- b) The payment of taxes owed pursuant to Sections 409, 444, and 444.1 of the Code [215 ILCS 5/409, 444 and 444.1] and Section 12 of the Fire Investigation Act [425 ILCS 25/12] shall be made by the payor by separate check, or other payment method approved by the Director, for each company and for each tax return.
- c) All tax returns required pursuant to 50 Ill. Adm. Code, Subchapter ee, must be signed by an officer of the company, or by the surplus line producer, or an officer of the Illinois Fair Plan, as may be appropriate for that tax return.
- d) Cash shall not be sent as payment for any fee, charge or tax owed pursuant to 50 Ill. Adm. Code, Subchapter ee.

Section 2500.80 Calculation Guidelines

- all calculations made pursuant to 50 Ill. Adm. Code, Subchapter ee shall be rounded to whole numbers by rounding down if the first decimal place is five or less and rounding up otherwise.
- For all calculated amounts owed pursuant to 50 Ill. Adm. Code, Subchapter ee a whole dollar amount shall be reported and any amount calculated should be rounded down if \$0.50 or less, and rounded up otherwise.

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- 1) Heading of the Part: Overpayments, Refunds, Amendments and Penalties
- 2) Code Citation: 50 Ill. Adm. Code 2525
- 3)

Section Number:	Adopted Action:
2525.10	New Section
2525.20	New Section
2525.30	New Section
2525.40	New Section
2525.50	New Section
2525.60	New Section
2525.70	New Section
2525.80	New Section
2525.90	New Section
2525.100	New Section
2525.110	New Section
2525.111	New Section
2525.112	New Section
2525.113	New Section
2525.114	New Section
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2525.270	New Section
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2525.273	New Section

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- d) Section 2525.20 add a comma following "Director" on the second line.
- e) Section 2525.20 add "Illinois Insurance" following "the" on the fourth line.
- f) Section 2525.40 on the last line delete "the Illinois Insurance Code [215 ILCS 5/1 through 165/30]" and add "any of the Acts in Chapter 215 of the Illinois Compiled Statutes in lieu thereof".
- g) In the heading of Section 2525.50 change "Tax" to "Taxes".
- h) Section 2525.50(b)(1)(A) add "corporate and/or replacement" following "year's" on the first line.
- i) Section 2525.50(b)(3) on the first line, (b)(3)(A), (c) on the fifth line, Section 2525.60(c) on the first line and (c)(1) delete "or regulation".
- j) Section 2525.50(b)(3)(A), (b)(3)(B) and Section 2525.60(c)(1) and (2) change "the" to "a".
- k) Section 2525.50(d) change "tax" to "taxes" on the fifth line.
- l) Section 2525.50(e) on the second line and Section 2525.60(f) on the fourth line change "is" to "has" twice and add "been" following "not" twice. Also delete "et seq." on the last line.
- m) Section 2525.50(e) on the third line and Section 2525.60(g) on the third line delete "considered as a voluntary payment and". Also add "after 7 years and be considered unclaimed monies under the Uniform Deposition of Unclaimed Property Act [765 ILCS 1025 et seq.]" following "records" on the last line.
- n) Section 2525.60 add a comma following "request" on the first line.
- o) Section 2525.60 delete "an" and add "such" on the ninth line in lieu thereof.
- p) Section 2525.60 on the twelfth line and Section 2525.70 on the ninth line add a hyphen between "6" and "year".
- q) Section 2525.60(a)(1) add "corporate and/or replacement" following "year's" on the first line.
- r) Section 2525.60(f) delete "made" on the first line.
- s) Section 2525.60(g) change "Deposition" to "Disposition" on the last line and also delete "et seq."

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- t) Section 2525.70 delete the comma following "it" on the ninth line.
- u) Section 2525.70 add "aggregate" following "or" and change "cannot" to "may not" three lines up from the bottom.
- v) Section 2525.70 add "aggregate" following "the year the". Also add "tax" following "income" on the second to the last line.
- w) Section 2525.70 add "and" following "paid" on the last line.
- x) Section 2525.80 add a period following the citation on the sixth line.
- y) Section 2525.80 delete "refund" three lines up from the bottom.
- z) Section 2525.90(f) change "of the officer" to "of an officer" on the first line.
- aa) Section 2525.100(a) add "an insurance company," following "when" on the first line. Also delete ", insurance company".
- bb) Section 2525.100(a) on the second line (a)(2) on the second line (a)(3) on the third line and (b) add "timely" following "fails to".
- cc) Section 2525.100(a)(2) change "any" to "an" and add ", the Illinois Fair Plan" following "company" on the first line.
- dd) Section 2525.100(a)(2) on the fourth and fifth line delete "408.1".
- ee) Section 2525.100(a)(3) add "an insurance company," following "Section" on the first line.
- ff) Section 2525.100(a)(3) delete "this" on the third line.
- gg) Section 2525.100(a)(3) change "Sections" to "Section" on the fifth line.
- hh) Section 2525.100(a)(3) delete "for" and add "shall be assessed" on the eighth line in lieu thereof.
- ii) Section 2525.100(a)(3) delete "(b) of Section" on the tenth line.
- jj) Section 2525.100(a)(3) add "(b)" following "6621" on the eleventh line.
- kk) Section 2525.100(a)(4) add "an insurance company," following "subject" on the second line.
- ll) Section 2525.100(a)(4) delete the comma following "Plan" and also

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delete "insurance companies," on the third line.

mm) Section 2525.100(b) delete "(b) of Section" and add "(b)" following "6621" on the ninth line.

nn) Section 2525.110 delete "Section" and add "subsection" on the fourth line in lieu thereof.

oo) Section 2525.110 delete "A request for hearing shall be made pursuant to" on the fifth line and add "The hearing request shall be made pursuant to 50 Ill. Adm. Code 2500.50 and shall be based on" in lieu thereof.

pp) Section 2525.110 delete the last sentence of this Section.

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No. The Department did not agree to make the change list under number nine, ten or eleven of the Second Notice Changes document.

13) Will this rule replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of rulemaking: This Part provides the procedures by which an overpayment of taxes paid may be used and how such established overpayment may be transferred. It also sets forth the requirements for filing an amended return and the possible penalties that could be assessed for failure to make timely payment of fees, charges or taxes. This Part has one illustration and it describes the information required in the Notice of transfer of overpayments required by this Part.

16) Information and questions regarding this adopted rules shall be directed to:

Chuck Feinen
Staff Attorney
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 557-1396

The full text of the Adopted Rules begins on the next page.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ee: FEES, CHARGES AND TAXES

PART 2525

OVERPAYMENTS, REFUNDS, AMENDMENTS AND PENALTIES

Section	Purpose
2525.10	Applicability
2525.20	Severability
2525.30	Definitions
2525.40	Overpayments Concerning the Annual Privilege and Retaliatory Taxes
2525.50	Overpayments for All Other Fees, Charges or Taxes
2525.60	Amended Returns
2525.70	Cash Refund of Overpayment
2525.80	Transfer of Overpayments
2525.90	Penalty Assessment
2525.100	Hearings
2525.110	Notice of Transfer of Overpayment

ILLUSTRATION A

AUTHORITY: Implementing Section 412 of the Illinois Insurance Code [215 ILCS 5/412] and Section 13 of the Fire Investigation Act [425 ILCS 25/13] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: ~~DEC 21 1988~~ at 23 Ill. Reg. ~~302~~ ³⁰², effective

Section 2525.10 Purpose

This Part sets forth certain procedural requirements for the amendment of tax returns, clarifies the establishment and use of overpayments and refunds, and sets forth penalties pursuant to Section 412 of the Illinois Insurance Code [215 ILCS 5/412] for the failure to file a return, for late filings and for filing insufficient payments.

Section 2525.20 Applicability

This Part applies to any company, Illinois Fair Plan or surplus line producer that has paid, or is required to pay, to the director, taxes, fees or charges pursuant to Sections 408, 409, 444 and 444.1 of the Illinois Insurance Code [215 ILCS 5/408, 409, 444 and 444.1] and Section 12 of the Fire Investigation Act [425 ILCS 25/12].

Section 2525.30 Severability

If any Section, subsection, paragraph, sentence, clause, or phrase of this Part is declared invalid for any reason, the remaining portions of this Part that

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are severable from the invalid portion shall remain in full force and effect. If any portion of this Part is declared invalid in one or more of its applications, the remaining portion shall be severable and in effect in all valid applications.

Section 2525.40 Definitions

Except as stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall be the same as those used in 50 Ill. Adm. Code 2500.40 and any of the Acts in Chapter 215 of the Illinois Compiled Statutes.

Section 2525.50 Overpayments Concerning the Annual Privilege and Retaliatory Taxes

- a) Overpayments can be created, if the requirements of this Part are met, by the following:
 - 1) Upon the filing of an annual privilege or retaliatory tax return showing overpayments, the Department will make an adjustment to the current balance of the privilege or retaliatory tax account;
 - 2) Pursuant to the filing of an amended privilege or retaliatory tax return in accordance with Section 2525.70 of this Part, the Department will issue an invoice adjustment showing the overpayment amount and will make an adjustment to the current balance of the privilege or retaliatory tax account;
 - 3) In connection with the Department conducting an audit in which the result is an overpayment, the Department will issue an invoice adjustment showing the overpayment amount and will make an adjustment to the current balance of the privilege or retaliatory tax account.
- b) All overpayments created pursuant to subsection (a) of this Section must result from the following:
 - A) Applying a previous year's corporate and/or replacement income tax overpayment in the current year's tax return; and
 - B) Using premium written in the state of incorporation to determine the state of incorporation's basis for retaliatory tax purposes; or
- 2) An error in calculation including, but not limited to:
 - A) An incorrect decimal assignment; and
 - B) An erroneous sum, result or total arising out of a mathematical function, operation or equation; or
- 3) An erroneous interpretation of a statute of this or any other state, including, but not limited to:
 - A) A misapplication of a statute;
 - B) A misunderstanding of a statute;
- 4) However, an erroneous interpretation of a statute of this or any

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other state does not include a finding of unconstitutionality of the statute in question. Additionally, a mistake in fact shall not include the assertion that a statute is unconstitutional on its face.

- c) Upon notice to the company, the Department reserves the right to adjust all overpayments created pursuant to this Section if upon verification and audit the stated overpayment is incorrect and/or not the result of a mistake of fact, error in calculation, or an erroneous interpretation of a statute of this or any other state. The company may request a hearing pursuant to Section 2525.110 of this Part for the purpose of determining the correct amount of the adjustment.
- d) Overpayments pursuant to this Section can only be used to offset future retaliatory or privilege tax and can be transferred pursuant to Section 2525.90 of this Part. However, the transferred overpayment may only be used to offset future retaliatory and privilege taxes. Alternatively, a cash refund of the overpayment may be considered by the Director pursuant to a request as set forth in Section 2525.80 of this Part.
- e) Upon written notice to the company at its last known address any overpayment that has not been used and has not been transferred will be removed from the Department's records after 7 years and be considered unclaimed monies under the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025].

Section 2525.60 Overpayments for All Other Fees, Charges or Taxes

Upon a written request, to the attention of the Tax and Fiscal Section of the Department, which includes information supporting the request to change the amount assessed by the Department's invoice and a copy of the Department's invoice, or upon an amended return filed pursuant to Section 2525.70 of this Part, or as a result of an audit, if it appears to the satisfaction of the Director that there has been an overpayment of the amount legally chargeable pursuant to Section 408 of the Code [215 ILCS 5/408] or Section 12 of the Fire Investigation Act [425 ILCS 25/12], the Department will issue a letter of credit for such overpayment. Any written request or amended return must be based on a mistake of fact, error in calculation, or erroneous interpretation of a statute of this or any other state, during the 6-year period immediately preceding the discovery of such overpayment [215 ILCS 5/412]. For purposes of this Section:

- a) A mistake of fact includes, but is not limited to:
 - 1) Applying a previous year's corporate and/or replacement income tax overpayment in the current year's tax return; and
 - 2) Using premium written in the state of incorporation to determine the state of incorporation's basis for retaliatory tax purposes; or
- b) An error in calculation includes, but is not limited to:
 - 1) An incorrect decimal assignment; and
 - 2) An erroneous sum, result or total arising out of a mathematical

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- c) An erroneous interpretation of a statute of this or any other state, including, but not limited to:

- 1) A misapplication of a statute;
- 2) A misunderstanding of an equivocal term or phrase used in a statute.

- d) However, an erroneous interpretation of a statute of this or any other state does not include a finding of unconstitutionality of the statute in question. Additionally, a mistake in fact shall not include the assertion that a statute is unconstitutional on its face.

- e) Overpayments pursuant to this Section may only be used to offset the same type of tax, charge or fee in which the overpayment was made and may be transferred pursuant to Section 2525.90 of this Part. However, the transferred overpayment may only be used to offset the same type of tax, charge or fee in which the overpayment was made. Alternatively, a cash refund of the overpayment may be considered by the Director pursuant to a request as set forth in Section 2525.80 of this Part.

- f) Overpayments pursuant to this Section for which the underlying tax, fee or charge has been prospectively repealed may be used to offset any tax owed pursuant to Section 409 of the Code [215 ILCS 5/409] and may be transferred after 7 years pursuant to Section 2525.90 of this Part. Transferred overpayments used to offset underlying tax have been prospectively repealed and may be used to offset any tax owed pursuant to Section 409 of the Code [215 ILCS 5/409].

- g) Section 409 of the Code [215 ILCS 5/409].
 Notification notice to the company, at its last known address, any overpayment that is not used and is not transferred will be removed from the Department's records after 7 years and be considered unclaimed monies under the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025].

Section 2525.70 Amended Returns

Any company, Illinois Fair Plan, or surplus line producer may file an amended return with the Department. An amended return shall be made by filing an original return which shows the amendments and includes explanations for those amendments. A copy of the original return shall be included with the amended return. Amended returns will only be allowed if it appears to the satisfaction of the Director that because of some mistake of fact, error in calculation, or erroneous interpretation of a statute of this or any other state, anyone has paid in excess of the amount legally chargeable against it during the 6-year period immediately preceding the discovery of such overpayment [215 ILCS 5/412]. Adjustments (e.g., cash refunds or additional cash payments, of prior income or fire department taxes paid) shall be accounted for in the year of the adjustment and shall not be the basis for amending a previous privilege or retaliatory tax return. Furthermore, any overpayment adjustment requested for the amount of fire department taxes or aggregate income taxes paid may not exceed the amount of privilege or retaliatory tax owed in the year the

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DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

aggregate income tax or fire department tax was paid and for which the overpayment adjustment is now being sought.

Section 2525.80 Cash Refund of Overpayment

The Department, without the claimant obtaining a budget appropriation for the Department equal to the amount of the alleged overpayment, cannot provide a cash refund for an overpayment pursuant to Section 412 of the Code [215 ILCS 5/412] and Section 2525.50 of this Part unless the overpayment was part of a protested payment pursuant to the State Officers and Employees Disposition Act [30 ILCS 230/1 through 230/6a]. A cash refund of an overpayment pursuant to Section 2525.60 of this Part may be possible if there is a budget appropriation already established for the Department by which overpayments may be refunded. Alternatively, relief may be possible through the Illinois Court of Claims or by transferring the overpayment pursuant to Section 2525.90 of this Part.

Section 2525.90 Transfer of Overpayments

An overpayment allowable pursuant to Sections 2525.50 and 2525.60 of this Part may be transferred in whole or in part to another company upon written approval of the Director. The company that made the payment creating the overpayment pursuant to this Part must file with the Department a written "Notice of Transfer of Overpayment" as set forth in Illustration A of this Part. The Notice of Transfer of Overpayment shall include the following information:

- a) The company's name that is transferring the overpayment, including that company's Federal Employee Identification Number (FEIN);
- b) The amount of the overpayment being transferred;
- c) The name of the company and the company's Federal Employee Identification Number (FEIN) to which the transfer is being made;
- d) A copy of a letter of credit (s) or invoice(s) issued, if any, pursuant to Section 2525.50 or 2525.60 of this Part for the overpayment which is being transferred;
- e) The monetary amount, if any, exchanged between the entities; and
- f) A certification of an officer of the company that the provided information in the Notice of Transfer of Overpayment is true and accurate to the best of their knowledge.

Section 2525.100 Penalty Assessment

- a) When an insurance company, the Illinois Fair Plan or surplus line producer fails to timely file any tax return or pay the full amount required under 30 Ill. Adm. Code 420.60, 30 Ill. Adm. Code 2515.50, 111 ILCS 5/409, and Sections 409, 440, 441, 443, 445, of this Code [215 ILCS 5/409, Act (425 ILCS 5/440, 5/441, 5/443, 5/445), or Section 12 of the Fire Insurance Investigation Act (425 ILCS 25/12) on the date prescribed, the following assessment may be made:
- 1) There shall be added as a penalty \$200 or 5% of the amount of such tax, whichever is greater, for each month or part of a month

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of failure to file a return even if no tax is owed, the entire penalty not to exceed \$1,000 or 2% of the tax due, whichever is greater;

- 2) When an insurance company, the Illinois Fair Plan or any surplus line producer fails to timely pay the full amount due under the provisions of 50 Ill. Adm. Code 2510, 50 Ill. Adm. Code 2515, 50 Ill. Adm. Code 2520, and Section 409, 444, 444.1 or 445 of this Code [215 ILCS 5/409, 444, 444.1 or 445], or Section 12 of the Fire Investigation Act [425 ILCS 25/12] the following penalties may be assessed:

- A) There shall be added to the amount due as a penalty an amount equal to 5% of the deficiency; and
- B) If such failure to pay is determined by the Director to be willful, after a hearing held pursuant to 50 Ill. Adm. Code 2500.50 and 50 Ill. Adm. Code 2402 and Sections 402 and 403 of the Code [215 ILCS 5/402 and 403], there shall be added to the tax as a penalty an amount equal to the greater of 2% of the deficiency or 3% of the amount due and unpaid for each month or part of a month that the deficiency remains unpaid commencing from the date that the amount becomes due. Such amount shall be in lieu of any amount determined under subsection (a)(2)(A) of this Section; and

- 3) In addition to subsections (a)(1) and (2) of this Section an insurance company, the Illinois Fair Plan, insurance company or any surplus line producer which fails to timely pay the full amount due under 50 Ill. Adm. Code 2510, 50 Ill. Adm. Code 2515, 50 Ill. Adm. Code 2520, and Section 409, 444, 444.1 or 445 of this Code [215 ILCS 5/409, 444, 444.1 or 445], or Section 12 of the Fire Investigation Act [425 ILCS 25/12], in addition to the tax and any penalties, shall be assessed interest on such deficiency at the rate of 12% per annum, or at such higher adjusted rates as are or may be established under subsection 6621(b) of the Internal Revenue Code [26 USCS 6621(b)], from the date that payment of any such tax was due, determined without regard to any extensions, to the date of payment of such amount.

- 4) Adjustments to any tax return that do not result in the payment of additional taxes to this State will not subject an insurance company, the Illinois Fair Plan or surplus line producers to penalties or interest under this Section unless found to be willful under subsection (a)(2)(B) of this Section.

- b) When an insurance company or affiliated group fails to timely pay the full amount of any fee or charge of \$100 or more due under 50 Ill. Adm. Code 2505 and Section 408 of the Code [215 ILCS 5/408], there may be added to the amount due as a penalty the greater of \$50 or an amount equal to 5% of the deficiency for each month or part of a month that the deficiency remains unpaid. In addition to the fee or charge, interest on such deficiency shall be assessed at the rate of 12% per annum, or at such higher adjusted rates as are or may be established

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under subsection 6621(b) of the Internal Revenue Code [26 USCS 6621(b)], from the date that payment of any such fee or charge was due to the date of payment of such amount may be also added.

Section 2525.110 Hearings

Any person or company required to pay a fee, charge or tax pursuant to Subchapter ee may request a hearing to be held for the purposes of determining if the assessed fee, charge or tax is appropriate or adjustment to accredited overpayment pursuant to subsection 2525.50(c) of this Part is correct. The hearing request shall be made pursuant to 50 Ill. Adm. Code 2500.50 and shall be based on the grounds set forth in Section 412 of the Code [215 ILCS 5/412], a mistake of fact, an error in calculation or an erroneous interpretation of a statute of this or any other state, and such request will only be granted based on those grounds.

DEPARTMENT OF INSURANCE

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Section 2525.ILLUSTRATION A Notice of Transfer of Overpayment

NOTICE OF TRANSFER
OF OVERPAYMENTFederal Employer Identification Number (FEIN) _____
Company Transferring Overpayment _____By the _____
Insurance Company

Name of Company Transferring Overpayment _____

Street and Number _____ City _____ State _____ Zip Code _____

The overpayment amount being transferred _____

Name of Company Receiving the Overpayment _____

Federal Employer Identification Number (FEIN) _____
Company Receiving the Overpayment _____

The monetary amount exchanged for the overpayments transferred _____

I, _____, do hereby certify that, to the best of my knowledge, the matters asserted in this Notice of Transfer are true and correct.

Signature of an Officer of the Company Transferring the Overpayment

I, _____, do hereby certify that, to the best of my knowledge, the matters asserted in this Notice of Transfer are true and correct.

Signature of an Officer of the Company Receiving the Overpayment

Do not forget to attach a copy of the letter of credit(s) or invoice(s) if issued pursuant to 50 Ill. Adm. Code 2525.50 and 2525.60 for the overpayment which is being transferred.

Internal Department Use Only

Date Transfer was completed _____

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

1) Heading of the Part: Off-Highway Vehicle Recreational Trails Grant Program

2) Code Citation: 17 Ill. Adm. Code 3045

3) Section Numbers: _____ Adopted Action: _____

3045.10 New Section

3045.20 New Section

3045.30 New Section

3045.40 New Section

3045.50 New Section

3045.60 New Section

3045.70 New Section

3045.80 New Section

3045.90 New Section

4) Statutory Authority: Implementing and authorized by Section 15 of the Recreational Trails of Illinois Act [20 ILCS 862/15].

5) Effective Date of Amendments: December 21, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Do these rules contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 2, 1998, 22 Ill. Reg. 17291

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between Proposal and final version: In the Authority Note "(P.A. 90-287)" was replaced with "[20 ILCS 862/15]"

Section 3045.10 "develop" was added prior to "operate"; "State Treasurer's" was removed; the quotes around "Off-Highway Vehicle Trails Fund" were removed; and "a special fund in the State Treasury" was added at the end of the sentence.

Section 3045.20 "state" was capitalized.

Section 3045.40(c) "Applications" was changed to lower-case.

Section 3045.40(c)(3) the comma following "location" was changed to "and".

Section 3045.40(c)(6) "OR" was changed to "or".

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Section 3045.40(c)(7) "signed document" was changed to "document signed"; and "they have" was changed to "the applicant has".

Section 3045.50(c) "which" was changed to "that"; "g" was changed to "and".

Section 3045.80(d) "herein" was changed to "in this Section".

Section 3045.80(e) "a OHV" was changed to "an OHV".

Section 3045.80(g)(1) replaced "by the Department on a case-by-case basis" with "for invoices of \$5,000 or more for approved acquisitions by not-for-profit organizations such as RV clubs".

Section 3045.80(m) added a comma following "maintenance".

Section 3045.80(m)(1) changed "IL Dept" to "Illinois Department".

Section 3045.80(m)(2) changed "IL" to "Illinois".

Section 3045.80(m)(3) changed "Corp" to "Corps".

Section 3045.80(m)(4) changed "Dept." to "Department" and "g" to "and".

Section 3045.80(m)(5) changed "Dept" to "Department"

Section 3045.80(q) replaced "any of the herein cited program regulations and terms" with "this Part"; replaced "thereunder" with "with grant funds".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This new administrative rule establishes procedures for administering a new grant program authorized by the Recreational Trails of Illinois Act. This program will provide financial assistance, up to 100% of approved costs, to local entities for acquisition and development of land for public Off-Highway Vehicle facilities.

16) Information and questions regarding these adopted rules shall be directed to:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

Jack Price
Department of Natural Resources
524 S. Second Street, Room 430
Springfield IL 62701-1787
217/782-1809

The full text of the Adopted Rules begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER 9: GRANTS

PART 3045

OFF-HIGHWAY VEHICLE RECREATIONAL TRAILS GRANT PROGRAM

Section

3045.10

Program Objective

3045.20

Program Eligibility Requirements

3045.30

Funding Assistance Formula

3045.40

General Procedures for Grant Applications and Awards

3045.50

Eligible Project Expenditures

3045.60

Project Evaluation Criteria/Priorities

3045.70

Review by Advisory Board

3045.80

Program Compliance Requirements

3045.90

Program Information

AUTHORITY: Implementing and authorized by Section 15 of the Recreational Trails of Illinois Act [20 ILCS 862/15].

SOURCE: Adopted at 23 Ill. Reg. **314**, effective

DEC 21 1988

Section 3045.10 Program Objective

The intent of the grant program is to provide financial aid to government agencies, not-for-profit organizations, and other eligible groups or individuals as noted in Section 3045.20 to develop, operate, maintain, and acquire land for off-highway vehicle parks and trails that are open and accessible to the public in Illinois. Funds for the grant program are derived from revenue generated in the Off-Highway Vehicle Trails Fund, a special fund in the State Treasury.

Section 3045.20 Program Eligibility Requirements

Agencies eligible for financial assistance through the Off-Highway Vehicle Trails Fund, hereafter referred to as the OHV grant program, include units of government, private OHV clubs or organizations in Illinois having not-for-profit incorporation status, business entities and private individuals. Entities other than governmental bodies seeking financial assistance through the grant program must also possess minimum liability insurance coverage of \$1,000,000 per occurrence on the facilities to be operated under the scope of the proposed project application. OHV funds may only be awarded and used for off-highway vehicle projects located within the State boundaries of Illinois and open to the general public.

Section 3045.30 Funding Assistance Formula

The OHV grant program can provide up to 100% funding reimbursement assistance on total eligible and approved project costs.

Section 3045.40 General Procedures for Grant Applications and Awards

- Requests for funding assistance through the OHV grant program must be made through written application to the Illinois Department of Natural Resources, hereafter referred to as the Department. Necessary application forms and instructions are available through the Department.
- To be eligible for funding consideration, project applications must be submitted to the Department's Division of Grant Administration by an annual established application deadline date that will be publicly announced by the Department. Notice of grant awards generally should be announced within 180 days after the application submission deadline date. Awarding of grants is made solely under the authority and directive of the Director of the Department.
- Grant applications shall consist of the following basic components:
 - applicant's name, address, telephone number and designated contact person;
 - copy of incorporation papers for private OHV club/organization applicants;
 - project narrative statement describing the project concept, location and estimated cost, need for and objectives of the project, type of OHVs authorized to use project site, anticipated benefits and approach for accomplishing the project;
 - project location map, site plat map, and proposed development plan;
 - project environmental evaluation;
 - proof of land ownership or usage rights for proposed development (construction) projects or commitment for title insurance for project property planned for acquisition;
 - a document signed by the applicant verifying the applicant has the resources to initially finance and subsequently manage the project area and will comply with program regulations and indemnify the Department from any liability relative to the project; and
 - proof of liability insurance or commitment for such insurance if a requested grant application element.
- A program information packet may be obtained from the Department by contacting the Division of Grant Administration (see Section 3045.90, Program Information).

Section 3045.50 Eligible Project Expenditures

- Grant assistance may be obtained for, but not limited to, the following:
 - cost of land acquisition (fee simple title or permanent easement,

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The OHV grant program can provide up to 100% funding reimbursement assistance on total eligible and approved project costs.

Section 3045.40 General Procedures for Grant Applications and Awards

- Requests for funding assistance through the OHV grant program must be made through written application to the Illinois Department of Natural Resources, hereafter referred to as the Department. Necessary application forms and instructions are available through the Department.
- To be eligible for funding consideration, project applications must be submitted to the Department's Division of Grant Administration by an annual established application deadline date that will be publicly announced by the Department. Notice of grant awards generally should be announced within 180 days after the application submission deadline date. Awarding of grants is made solely under the authority and directive of the Director of the Department.
- Grant applications shall consist of the following basic components:
 - applicant's name, address, telephone number and designated contact person;
 - copy of incorporation papers for private OHV club/organization applicants;
 - project narrative statement describing the project concept, location and estimated cost, need for and objectives of the project, type of OHVs authorized to use project site, anticipated benefits and approach for accomplishing the project;
 - project location map, site plat map, and proposed development plan;
 - project environmental evaluation;
 - proof of land ownership or usage rights for proposed development (construction) projects or commitment for title insurance for project property planned for acquisition;
 - a document signed by the applicant verifying the applicant has the resources to initially finance and subsequently manage the project area and will comply with program regulations and indemnify the Department from any liability relative to the project; and
 - proof of liability insurance or commitment for such insurance if a requested grant application element.
- A program information packet may be obtained from the Department by contacting the Division of Grant Administration (see Section 3045.90, Program Information).

Section 3045.50 Eligible Project Expenditures

- Grant assistance may be obtained for, but not limited to, the following:
 - cost of land acquisition (fee simple title or permanent easement,

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lease or similar management arrangement, etc.) from willing sellers for OHV trails and scramble areas, including approved appraisal costs, title insurance and closing costs;

- 2) construction, rehabilitation, maintenance and necessary design services for OHV trails/routes and scramble areas including site preparation work, signage, fencing, bridges, grooming equipment, etc. and associated support facilities including parking, shelters, restrooms, potable water supply, lighting, and other related amenities deemed necessary;
 - 3) restoration of areas damaged by OHV usage;
 - 4) rider education and safety programs; and
 - 5) cost of facility security.
- b) It is the Department's policy that the OHV grant program be used primarily to assist applicants purchase necessary materials and contract for specialized labor to develop and maintain public OHV facilities. Labor necessary for project operation shall be the responsibility of the applicant.
- c) No grant assistance will be awarded to projects that, either in whole or in part, will not be open to the general public for OHV use. (See Section 3045.80(n) regarding operation and maintenance requirements.)
- d) Grant assistance from this program cannot be used for the following purposes:
- 1) land acquisition through eminent domain; and
 - 2) construction of OHV trails and areas on Department owned and managed lands and on U.S. Forest Service lands designated as wilderness or currently not authorized for such use by an approved management plan.

Section 3045.60 Project Evaluation Criteria/Priorities

The following criteria (not listed in any priority order) has been established by the Department for evaluating and ranking project applications for funding assistance:

- a) projects proposing long distance, integrated, intra-county and inter-county trails or large scramble areas rather than short, isolated trails or small scramble areas;
- b) projects proposing initial development of OHV facilities. Special consideration will also be given to those projects representing initial requests for funding assistance in a county;
- c) projects promoting multiple recreation use of the project site;
- d) projects located in areas (counties) of high demand as determined by population and the number of registered OHVs in the area;
- e) projects having minimal adverse environmental and social impact; and
- f) projects providing the most long term, stable management potential.

Section 3045.70 Review by Advisory Board

- a) All applications for grants from the Off-Highway Vehicle Trails Fund

DEPARTMENT OF NATURAL RESOURCES

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shall be reviewed by the five member Off-Highway Vehicle Trails Advisory Board. The Board shall, after review, make a written recommendation to the Director of the Department of Natural Resources on each grant application reviewed.

- b) The Advisory Board shall:
 - 1) meet a minimum of twice annually with additional meetings called as needed;
 - 2) use Robert's Rules of Order as a guideline for conducting meetings;
 - 3) elect a Chairperson and Vice-Chair during the first meeting of the year to serve a one-year term. The Chair may serve no more than 2 consecutive terms;
 - 4) elect two members to serve on the Greenways and Trails Council for one year. These members may be elected to consecutive terms;
 - 5) utilize the Department appointee as Secretary to the Board and as liaison between the Board and the Department. The Secretary shall vote only in case of a tie;
 - 6) require a simple majority of the Board members present at a meeting to pass a motion. A Board member who is unable to attend a Board meeting may send a representative to vote in the absent member's place. The absent member must provide written authorization for a representative for each meeting the representative is authorized to attend or vote. The representative must be from the same organization as the absent member; and
 - 7) allow reasonable time for public comment at each meeting, as deemed appropriate by the Chair, prior to final consideration and action by the Board on any agenda item.

Section 3045.80 Program Compliance Requirements

- a) Grant projects approved through the OHV program shall be completed within 24 months from the date of approval unless otherwise approved by the Department. All approved projects must be in accordance with the agreed upon project specifications and a final billing request for reimbursement submitted to the Department.
- b) All land and equipment/materials purchased through the OHV grant program, except those purchased by government agencies, shall be subject to repossession and disposition by the Department as deemed appropriate upon the dissolution of the project sponsor or as a result of unresolved project sponsor non-compliance with program regulations as stated herein. Land and equipment/materials purchased by government agencies where the project sponsor fails to comply with program regulations stated herein shall be responsible for repayment of funds to the Department equal to the original grant amount disbursed to the sponsor or the property's certified fair market value at the time of non-compliance, whichever is deemed most appropriate by the Department.

DEPARTMENT OF NATURAL RESOURCES

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- c) With the exception of designated OHV routes on or along local roads and streets, all OHV facilities developed with assistance from the OHV grant program shall be posted with a liability disclaimer sign at ingress/egress points to the facility warning users that they use the facility at their own risk.
- d) With the exception of designated OHV routes on or along local roads and streets, it shall be the sole responsibility of the project sponsor to adequately patrol the OHV-assisted facility to ensure proper usage of the facility and user compliance with all State and local OHV regulations. Failure of the project sponsor to take corrective measures that bring the facility into compliance with this Part or to help remedy complaints lodged by local citizens concerning misuse of OHV-assisted facilities shall be grounds for a finding of program non-compliance as specified in this section and be subject to corrective measures by the Department as deemed appropriate.
- e) During all times of operation of an OHV grant assisted facility, the project sponsor (excluding government entities) must possess insurance protection providing a minimum of \$1,000,000 per occurrence liability coverage.
- f) The project sponsor (applicant) shall indemnify, protect and hold harmless the Department from any and all liability, costs, damages, and claims arising as a direct or indirect result of the construction, operation or maintenance of facilities assisted with OHV grant funds.
- g) The project sponsor must possess the resource capabilities to:
 - 1) initially finance 100% of the total cost prior to grant reimbursement, unless otherwise approved for invoices of \$5,000 or more for approved acquisitions by not-for-profit organizations such as ATV clubs; and
 - 2) properly maintain and operate the OHV fund-assisted facility after project completion.
- h) Upon project completion, the project sponsor must submit a certified project billing request (expenditure statement) listing/verifying all funds expended on the project for which grant reimbursement is sought, as well as required billing documentation, as follows:
 - 1) Acquisition Project: Proof of good faith negotiations or fair market value offer to land seller, copy of property deed (showing ownership transferred to the project sponsor/applicant), and copies of canceled check(s) showing proof of payment to seller.
 - 2) Development Projects: Copy of construction As-Built drawings (no larger than 11" x 17"), copy of receipts/invoices for project costs, and copy of canceled checks showing proof of payment.
- i) All financial records on approved projects must be maintained and retained by the project sponsor for possible State audit for a period of 5 years after final reimbursement payment is made by the Department.
- j) The project sponsor must permanently post an OHV grant program acknowledgment sign at the project site. The required sign will be furnished by the Department.

DEPARTMENT OF NATURAL RESOURCES

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- k) Upon request, all work specifications must be submitted by the project sponsor to the Department for review prior to commencing work. Project sponsor will be notified by the Department if the proposed project requires the approval of a registered professional engineer.
- l) Department representatives shall have access to OHV-assisted project sites at any time during construction to assess project progress and during facility operation to ensure continuing compliance with program regulations. As time allows, Department representatives shall be available, upon request, for consultation/technical assistance concerning project development. It shall be further understood that a final inspection and acceptance of the completed project work must be made by a Department representative prior to approval of final reimbursement payment to the project sponsor.
- m) In connection with, and prior to, the construction, and thereafter the subsequent operation and maintenance, of OHV grant assisted facilities, the project sponsor (applicant) agrees that it shall be responsible for and obtain all necessary permits, licenses or forms of consent, as the case may be, from, but not limited to, the following agencies:
 - 1) Illinois Department of Natural Resources, Office of Water Resources;
 - 2) Illinois Environmental Protection Agency;
 - 3) U.S. Army Corps of Engineers;
 - 4) Illinois Department of Public Health (Campground Licensing and Recreational Area Act);
 - 5) Illinois Department of Transportation, Division of Highways; and
 - 6) Local building, zoning or road commissions, etc.
- n) The project sponsor must comply with and abide by the following operation and maintenance provisions:
 - 1) The charging of user fees for general public use must be approved by the Department.
 - 2) Except as noted below, all OHV grant-assisted facilities must be open and available for general public use and enjoyment without regard to sex, race, color, creed, national origin or residence.
 - A) Use of the project facility can be restricted to only those users that can show proof of adequate personal liability insurance coverage or are willing to sign liability waivers concerning use of the facility.
 - B) Use of the project facility may be restricted by type of OHV if specified in the approved project agreement or if justified and approved by the Department.
 - 3) All OHV grant assisted facilities shall be operated, maintained and utilized for general public use in a safe and attractive manner so as to maximize the facility's intended public benefit.
 - 4) Department personnel shall have access to OHV grant assisted facilities at all times during hours of normal operation for inspection purposes to ensure continued compliance with program regulations.

DEPARTMENT OF NATURAL RESOURCES

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- o) All funds administered by the Department under the OHV grant program and expended by the project sponsor shall be in accordance with all applicable State statutes.
- p) The Department may unilaterally rescind OHV grant funds and terminate project agreements any time the General Assembly fails to appropriate or release sufficient OHV grant funds to fulfill the obligation or the applicant demonstrates non-compliance with this Part. Otherwise, after project commencement, OHV grant funds and project agreements may be rescinded, modified, or amended only by mutual agreement with the project sponsor. A project shall be deemed commenced when the project sponsor has made an expenditure or has incurred an obligation with respect to the project.
- q) Failure by the project sponsor to comply with this Part shall be cause for the suspension of all OHV grant fund obligations and/or repossession of project lands and equipment/materials purchased with grant funds, unless, in the judgment of the Department, such noncompliance was due to no fault of the project sponsor (applicant).

Section 3045.90 Program Information

Write to: Illinois Department of Natural Resources
Division of Grant Administration
524 South Second Street
Springfield, Illinois 62701-1787

Telephone: 217/782-7481

FAX: 217/782-9599

e-mail: grant@dnrmail.state.il.us

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED AMENDMENT(S)

- 1) Heading of the Part: Accrediting Persons in the Practice of Medical Radiation Technology
- 2) Code Citation: 32 Ill. Adm. Code 401
- 3) Section Number: Adopted Action:
401.120 Amendment
401.130 Amendment
401.170 Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 5, 6, 7 and 36 of the Radiation Protection Act of 1990 (420 ILCS 40/5, 6, 7 and 36).
- 5) Effective Date of Rules: January 1, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: September 19, 1998 (22 Ill. Reg. 16417)
- 10) Has JCAR issued a Statement of Objections to these Rules? No
- 11) Differences between proposal and final version: In Section 401.70(c)(3), on line 3, insert "/or" immediately after the word "and".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these rules replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: This amendment will: (1) increase the initial application fee for persons who perform medical radiation procedures; (2) increase the application fees for persons who do not apply for, or meet, renewal requirements in a timely manner; (3) reduce civil penalties in cases where the threat to public health and safety were minimal and increase the penalties for persons performing medical radiation procedures without proper training and qualifications; and (4) allow the Department to deny an application for initial or renewal accreditation under certain circumstances. The increased fees will offset a portion of the additional costs associated with the processing of

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF ADOPTED AMENDMENT(S)

applications submitted late or deficient in continuing education.

- 16) Information and questions regarding these adopted rules shall be directed to:

Louise Michels
Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 785-9880 (voice)
(217) 782-6133 (TDD)

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF ADOPTED AMENDMENT(S)

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 401

ACCREDITING PERSONS IN THE PRACTICE OF MEDICAL RADIATION TECHNOLOGY

Section	
401.10	Policy and Scope
401.20	Definitions
401.30	Exemptions
401.40	Application for Accreditation
401.50	Categories of Accreditation
401.60	Examination Requirements
401.70	Acceptable Examinations
401.80	Approved Program
401.90	Practice Requirement - Initial Licensure (Repealed)
401.100	Initial Issuance of Accreditation
401.110	Duration of Accreditation
401.120	Suspension, and Revocation and Denial of Accreditation
401.130	Fees
401.140	Requirements for Renewal of Accreditation
401.150	Reciprocity
401.160	Additional Requirements for Radiographers Performing Mammography
401.170	Civil Penalties
APPENDIX A	Limited Diagnostic Radiography Procedures by Type of Limited Accreditation
APPENDIX B	Example Topics Directly Related to Radiologic Sciences
APPENDIX C	Minimum Training Requirements for Radiographers Performing Mammography

AUTHORITY: Implementing and authorized by Sections 5, 6, 7 and 36 of the Radiation Protection Act of 1990 [420 ILCS 40/5, 6, 7 and 36].

SOURCE: Adopted at 7 Ill. Reg. 17318, effective January 1, 1984; emergency amendment at 8 Ill. Reg. 17584, effective September 12, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 2499, effective February 13, 1985; amended at 10 Ill. Reg. 13259, effective July 28, 1986; amended at 10 Ill. Reg. 21086, effective January 1, 1987; amended at 11 Ill. Reg. 15623, effective September 11, 1987; emergency amendment at 11 Ill. Reg. 19797, effective November 24, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 7603, effective April 18, 1988; amended at 12 Ill. Reg. 18164, effective January 1, 1989; amended at 13 Ill. Reg. 15005, effective September 11, 1989; amended at 14 Ill. Reg. 15341, effective September 4, 1990; amended at 15 Ill. Reg. 7054, effective April 29, 1991; amended 16 Ill. Reg. 9115, effective June 2, 1992; amended at 20 Ill. Reg. 12595, effective September 6, 1996; amended ~~18~~ ¹⁹ ~~19~~ ²⁰ Ill. Reg. 13587, effective September 25, 1997; amended at 23 Ill. Reg. _____, effective

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Section 401.120 Suspension, and Revocation and Denial of Accreditation

a) The Department may act to suspend or revoke an individual's accreditation, or refuse to issue or renew accreditation, for any one or a combination of the following causes:

- 1) Knowingly causing a material misstatement or misrepresentation to be made in the application for initial accreditation or renewal of accreditation if such misstatement or misrepresentation would impair the Department's ability to assess and evaluate the applicant's qualifications for accreditation under this Part;
 - 2) Willfully evading the statute or regulations pertaining to accreditation, or willfully aiding another person in evading such statute or regulations pertaining to accreditation;
 - 3) Performing procedures under or representing as valid to any person either a certificate of accreditation not issued by the Department, or a certificate of accreditation containing on its face unauthorized alterations or changes that are inconsistent with Department records regarding the issuance of such Certificate;
 - 4) Having been convicted of a crime which is a felony under the laws of this State or conviction of a felony in a federal court, unless such individual demonstrates to the Department that he/she has been sufficiently rehabilitated, by restoration of all civil rights, to warrant the public trust;
 - 5) Exhibiting significant or repeated incompetence in the performance of professional duties;
 - 6) Having a physical or mental illness or disability which results in the individual's inability to perform professional duties with reasonable judgment, skill and safety;
 - 7) Continuing to practice medical radiation technology when knowingly having a potentially serious disease, such as those listed in 77 Ill. Adm. Code 690.100, which could be transmitted to patients;
 - 8) Repeatedly using alcohol, narcotics or stimulants to such an extent as to impair the performance of professional duties;
 - 9) Having had a similar credential by another state or the District of Columbia suspended or revoked if the grounds for that suspension or revocation are the same or equivalent to one or more grounds for suspension or revocation as set forth herein;
 - 10) Failing to repay an educational loan guaranteed by the Illinois Student Assistance Commission as provided in 20 ILCS 2005/71;
 - 11) Failing to meet child support orders as provided in 5 ILCS 100/10-65;
 - 12) Failing to pay a civil penalty properly assessed by the Department.
- b) If, based upon any of the grounds in subsection (a) of this Section, the Department determines that action to suspend or revoke accreditation, or refusal to issue or renew accreditation, is

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warranted, the Department shall notify the individual and shall provide an opportunity for a hearing in accordance with 32 Ill. Adm. Code 200-66. An opportunity for a hearing shall be provided before the Department takes action to suspend or revoke an individual's accreditation unless the Department finds that an immediate suspension of accreditation is required to protect against immediate danger to the public health or safety (see 420 ILCS 40/38), in which case the Department shall suspend an individual's accreditation pending a hearing.

- c) If the Department finds that removal, or refusal to issue or renew of accreditation, is warranted, the usual action shall be a suspension or denial of accreditation for up to one year. The term of suspension or denial may be reduced by the Director, upon the recommendation of the hearing officer, if the hearing officer finds, based upon evidence presented to him/her at a hearing, that the conditions leading to the Preliminary Order for Suspension can be cured in less than one year. However, if the Department finds that the causes are of a serious or continuous nature, such as past actions which posed an immediate threat to public health or safety, deficiencies that cannot be cured within one year or frequent child support arrearages, the Department shall revoke the individual's accreditation or deny the application.
- d) When an individual's accreditation is suspended or revoked, the individual shall surrender his/her credential to the Department until the termination of the suspension period or until reissuance of the accreditation.
- e) An individual whose accreditation has been revoked may seek reinstatement of accreditation by filing a petition for reinstatement with the Department. Such petition may be filed one year or more after the beginning of the revocation period. The individual shall be afforded a hearing in accordance with 32 Ill. Adm. Code 200 and shall bear the burden of proof of establishing that the accreditation should be reinstated due to rehabilitation or other just cause.

(Source: Amended at 23 Ill. Reg. 324, effective JAN 4 1999)

Section 401.130 Fees

a) The fees for accreditation in all categories shall be non-refundable and shall be as follows:

- 1) Initial Accreditation - Active, Conditional, Temporary or Limited Status: \$6946-00 per application
- 2) Renewal of Accreditation - Active, Conditional, or Limited Status: Application filed and all qualifications, including continuing education met prior to expiration of previous accreditation: \$60946-00 per application
- 3) Renewal of Accreditation - Active, Conditional,

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or Limited Status. Application filed after the expiration of previous accreditation, closed files excepted, and all qualification, including continuing education, met prior to expiration of previous accreditation: \$75 per application

- 4) Renewal of Accreditation - Active, Conditional, or Limited Status. Application filed before or after the expiration of previous accreditation, but the applicant has not documented completion of the required continuing education resulting in issuance of interim Department authorization to perform medical radiation procedures for a period of up to 90 days pursuant to Section 401.140(a)(1) of this Part: \$90 per application
- b) Examination fee for Limited Diagnostic Radiography Accreditation shall be \$30-60.
- c) The appropriate fees are to accompany the application when filing with the Department. An application is filed on the date that it is received and stamped by the Department ~~or on the date that it is postmarked by the United States Postal Service, whichever is earlier.~~

(Source: Amended at 23 Ill. Reg. 324, effective JAN 1 1993)

Section 401.170 Civil Penalties

- a) The Department shall assess civil penalties, in accordance with subsections (c) and (d) of this Section, against any person who performs, and against the operator of the radiation installation where a person performs, medical radiation procedures without valid accreditation, unless the person performing the medical radiation procedures is specifically exempt from the accreditation requirements as specified in Section 401.30 of this Part.
- b) Prior to assessing civil penalties, the Department shall confirm the violation of the accreditation requirements by:
- 1) Observation of the violation by a Departmental Inspector or nondepartmental inspector;
 - 2) Obtaining records, documents, or other physical evidence;
 - 3) Obtaining statements from either the employer, or the employee which confirm the existence of the violation; or
 - 4) Obtaining statements from third parties, e.g., patients or co-workers, that corroborate the allegation that a violation has occurred.
- c) Civil Penalties shall be assessed against persons who perform medical radiation procedures without accreditation (i.e., unaccredited technologists) as follows:
- 1) First violation by an unaccredited technologist--\$250
 - A) Failure to apply for initial or renewal of

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accreditation by a technologist who is fully qualified for accreditation or renewal of accreditation, including continuing education requirements at the time the violation is discovered.

- i) In violation 30 days or less \$100
 - ii) In violation 31 through 90 days \$150
 - iii) In violation greater than 90 days \$250
- B) Failure to apply for renewal of accreditation by a technologist who would be eligible for renewal of accreditation, but would not currently qualify due to insufficient continuing education at the time the violation is discovered.

- i) In violation 30 days or less \$150
- ii) In violation 31 through 90 days \$250
- iii) In violation greater than 90 days \$350

- C) Performance of a medical radiation procedure requiring accreditation by a person who is not qualified for accreditation at the time the violation is discovered \$500

- 2) Second violation by an unaccredited technologist shall be double the fine as assessed under subsection (c)(1)(A) or (c)(1)(B) of this Section. The penalty for second violations by an unaccredited technologist under subsection (c)(1)(C) of this Section shall be assessed by the Director in accordance with the provisions of 32 Ill. Adm. Code 310.81. ---\$500-

- 3) The penalty for the third ~~and~~ subsequent violations by an unaccredited technologist, under subsections (c)(1)(A), (c)(1)(B) and/or (c)(1)(C) of this Section, shall be assessed by the Director in accordance with the provisions of 32 Ill. Adm. Code 310.81. ---\$1,000-

- 4) The penalty for any violation involving presentation of falsified accreditation certificates or any other documents used to meet accreditation qualifications shall be assessed by the Director in accordance with the provisions of 32 Ill. Adm. Code 310.81.

- d) Civil Penalties shall be assessed against the operators of a radiation installation where a person performs medical radiation procedures without valid accreditation as follows:

- 1) First violation by an operator for violation by an unaccredited technologist as assessed under subsection (c)(1)(A) or (c)(1)(B) of this Section shall be double the fine assessed against the person performing radiography without accreditation. ---\$400-
- 2) Second and subsequent violations by an operator, within a 12 month period, for violation by an unaccredited technologist as assessed under subsection (c)(1)(A) or (c)(1)(B) of this Section shall not exceed \$10,000. The Director shall assess the amount of the penalty in accordance with the provisions of 32 Ill. Adm. Code 310.81. ---\$1,000-

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- 3) Operators who are assessed civil penalties for violations by an unaccredited technologist under subsection (c)(1)(C) of this Section shall not exceed \$10,000. The Director shall assess the amount of the penalty in accordance with provisions of 32 Ill. Adm. Code 310.81.
- e) The Department shall impose civil penalties by issuing a Preliminary Order and Notice of Opportunity for Hearing as provided in 32 Ill. Adm. Code 200.60. Each day the violation continues shall constitute a separate offense.
- f) Failure of an operator of a radiation installation to abate an accreditation violation or to pay a properly assessed civil penalty, shall cause the Department to issue an order prohibiting the use of any source of radiation at the installation until such time as the violation has been abated and all assessed civil penalties have been paid.

(Source: Amended at 23 Ill. Reg. 324, effective JAN 1 1999)

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- 1) Heading of the Part: Radiation Inspectors and Inspections

- 2) Code Citation: 32 Ill. Adm. Code 410

- 3) Section Number: Adopted Action:

410.20 Amendment

410.30 Amendment

410.40 Amendment

410.50 Amendment

410.60 Amendment

410.65 New Section

410.70 Amendment

410.80 Amendment

- 4) Statutory Authority: Implementing and authorized by Sections 5 and 25 of the Radiation Protection Act of 1990 [420 ILCS 40/5 and 25] (see P.A. 90-391, effective August 10, 1997).

- 5) Effective Date of Rules: December 18, 1998

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain incorporations by reference? No

- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in the Illinois Register: October 16, 1998 (22 Ill. Reg. 18214)

- 10) Has JCAR issued a Statement of Objections to these Rules? No

- 11) Differences between proposal and final version: None

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? The Joint Committee on Administrative Rules did not issue an agreement letter on this rulemaking.

- 13) Will these rules replace an emergency rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Rules: This amendment will (1) clarify nondepartment qualified inspectors education/experience requirements in Section 410.20; (2) allow the Department to limit the fields of inspection and testing services by nondepartment qualified inspectors in Section 410.20; (3) change the amount of the application and annual registration

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fee for nondepartment qualified inspectors in Section 410.30; (4) update the language in Section 410.40 to be consistent with the Act; (5) eliminate the requirement that operators shall submit the appropriate inspection review fee with the inspection report in Section 410.50; (6) delete the language contained in Section 410.60 regarding inspection and testing fees and clarify that radiation machines used for mammography shall be inspected pursuant to 32 Ill. Adm. Code 370; (7) revise the Class A and Class C categories of radiation installations to be consistent with the Act. Class A is being amended to remove language regarding the regulation of electron microscopes and Class C is being amended to include installations with radiation therapy machines; (8) add a new Section 410.65 that relates to the annualized fee for inspection and testing; (9) clarify the wording regarding radiation installations in Section 410.70; and (10) delete unnecessary operator requirements in Section 410.80.

- 16) Information and questions regarding these adopted rules shall be directed to:

Robert B. Holtsclaw
Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
217/524-1003 (voice)
217/782-6133 (TDD)

The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENT(S)

TITLE 32: ENERGY

CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY

SUBCHAPTER b: RADIATION PROTECTION

PART 410

RADIATION INSPECTORS AND INSPECTIONS

Section	Policy and Scope
410.10	Radiation Inspectors Education/Experience and Instrumentation Requirements
410.20	Approval of Application and Application/Registration Fees
410.30	Suspension and Revocation of Registration as a Nondepartment Qualified Inspector
410.35	Radiation Installations and Classifications
410.40	Inspection Procedures
410.50	Choice of Type of Inspector--Inspection Fees and Inspection Schedule
410.60	Inspection Fees
410.65	Separate Installation
410.70	Change in Operator
410.80	New Facility Filing Anniversary Date (Class C Facility Used As An Example) (Repealed)
ILLUSTRATION A	Existing Facility Filing Anniversary Date (Class B Facility Used As An Example) (Repealed)
ILLUSTRATION B	

AUTHORITY: Implementing and authorized by Sections 5 and 25 of the Radiation Protection Act of 1990 [420 ILCS 40/5 and 25].

SOURCE: Adopted at 8 Ill. Reg. 23209, effective November 19, 1984; amended at 9 Ill. Reg. 17821, effective November 5, 1985; amended at 10 Ill. Reg. 13265, effective July 29, 1986; amended at 13 Ill. Reg. 342, effective January 30, 1989; amended at 14 Ill. Reg. 13638, effective August 13, 1990; amended at 17 Ill. Reg. 17953, effective October 4, 1993; amended at 20 Ill. Reg. 9570, effective July 5, 1996; amended at 23 Ill. Reg. 330, effective DEC 18 1998.

DEC 18 1998

Section 410.20 Radiation Inspectors Education/Experience and Instrumentation Requirements

- Inspections and testing of radiation machines shall be conducted by designated Department personnel or by nondepartment qualified inspectors that are approved by the Department in accordance with Section 410.30 of this Part.
- In addition to satisfying the other requirements for approval set forth in this Part, an individual seeking approval as a nondepartment qualified inspector shall meet the education/ certification and experience in clinical practice requirements indicated in any one of the criteria set forth in this subsection (b).

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- | Education and/or
Certification | Experience |
|--|---|
| 1) Certification by the American Board of Radiology, American Board of Medical Physics or Canadian College of Medical Physics, in Physics, in radiological physics or radiological physics or therapeutic radiological physics | and experience included in certification. |
| 2) Certification by the American Board of Health Physics | and 6 months of x-ray survey experience. |
| 3) Doctorate (Ph.D.) or Master's (MS/MA) degree in health physics, medical radiological physics or physics | and 1 year of applied x-ray radiation protection experience of which 6 months must be x-ray experience. |
| 4) Bachelor's (BS/BA) degree in health physics, medical radiological physics or physics | and 2 years of applied x-ray radiation protection experience of which 6 months must be x-ray survey experience. |
| 5) Master's (MS/MA) or Bachelor's (BS/BA) degree in a physical or life science, or in mathematics, or other equivalent degree as determined by the Department | and 3 years of applied x-ray radiation protection experience of which 1 year must be x-ray survey experience. |

AGENCY NOTE: A degree that is not readily identifiable as meeting the requirements of this Part may be referred to the State Board of Higher Education for a determination of the degree classification.

- c) Upon initial application to the Department, and as a condition for approval as a qualified inspector, an applicant shall submit verification of access to instruments which will enable the individual

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- to perform inspections and tests in accordance with Department standards.
- d) The Department may limit the fields of inspection and testing services offered by an approved nondepartment qualified inspector, based upon the experience information submitted in the application. These fields shall include, but not be limited to, industrial, medical and therapeutic uses of x-rays.
- e) Individuals approved by the Department as nondepartment qualified inspectors will continue to remain approved as nondepartment qualified inspectors unless approval is removed for cause pursuant to Section 410.35 of this Part.

(Source: Amended at 23 Ill. Reg. _____, effective

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DEC 18 1998

Section 410.30 Approval of Application and Application/Registration Fees

- a) An applicant for approval by the Department as a nondepartment qualified inspector shall submit a complete and legible application on a form prescribed and furnished by the Department. Each applicant shall pay an application fee of \$200 which will serve as a registration fee for the remainder of the calendar year. The application fee is non-refundable. ~~the Department shall assess each applicant an application fee of \$50 which will serve as a registration fee for the remainder of the calendar year. The application fee is non-refundable. (Section 25(e) of the Act)~~
- b) The Department shall provide written notification to the applicant concerning the status of the application within 4 weeks after receipt of the application. If approval is granted, the applicant shall receive a "Notice of Approval" and the individual's name and address shall be entered in the record of persons approved as nondepartment qualified inspectors of radiation machines.
- c) All nondepartment qualified inspectors shall pay an annual registration fee of \$200 payable by January 1 of each year. The registration fee is non-refundable. ~~the Department shall assess each nondepartment qualified inspector an annual registration fee of \$50 payable on January 1 of each year. The registration fee is non-refundable. (Section 25(e) of the Act)~~ Failure of the inspector to remit the appropriate registration fee by January 1, will cause the Department to remove the individual's name from the record specified in subsection (b) of this Section. If an individual's name is removed from the record of nondepartment qualified inspectors, the Department will not accept radiation machine inspection reports completed on or after the date the inspector's name was removed from the record. Radiation machine inspection reports prepared and submitted after an individual has been reinstated to the record will be accepted by the Department.
- d) If an individual's name has been removed from the record of

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a nondepartment qualified inspector, forward a clear, legible copy of the inspection report to the Department, along with the appropriate inspection review fee to the Department. (See Section 410-60(f)(3) of this Part.)

h) In the event the Department has reason to question the accuracy or thoroughness of a radiation machine inspection report due to the submission of incomplete or contradictory information or if the Department is not able to verify compliance with the Department's standards for operating such equipment in accordance with 32 Ill. Adm. Code 310, 320, 340, 360, 380, 390, 400, and 401 and 403, the report will be returned to the operator for completion, correction or for reinspection as appropriate. Forms returned to the operator for corrections or completion, or for reinspection must be returned to the Department within 30 days of receipt.

i) Within 30 days of receipt of a completed radiation machine inspection report, the Department will provide results to the operator regarding the inspector's survey.

j) Reviews of nondepartment qualified inspectors' survey findings and inspection procedures will be conducted by the Department. Items and procedures considered as part of such reviews shall include, but need not be limited to, one or more of the following:

- 1) The type of instruments used by the inspector;
- 2) The procedures for the use of these instruments to determine compliance with Department standards;
- 3) The thoroughness and accuracy of inspection reports;
- 4) Use of other documents and investigative procedures to assure compliance with Department standards listed in subsection (a) of this Section;
- 5) Reinspection and testing by the Department of the radiation machines, records, and associated operation procedures of a radiation installation that were inspected by a nondepartment qualified inspector; and
- 6) Visual observation of the nondepartment qualified inspector during the performance of an inspection.

(Source: Amended at 23 Ill. Reg. _____, effective _____, DEC 18 1998.)

Section 410.60 Choice of Type of Inspector, Inspection Fees and Inspection Schedule

a) Operators of radiation installations shall assure that the installations, including all radiation machines located therein, are registered with the Department in accordance with the provisions of 32 Ill. Adm. Code 320 and are inspected and tested in accordance with the requirements of this Part.

b) Operators of radiation installations may elect to have their radiation machines and associated operating procedures inspected and

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tested by either a Departmental inspector or by a nondepartment qualified inspector whose name is included in the Department's record of persons approved as nondepartment qualified inspectors of radiation machines. However, radiation machines used for mammography shall be inspected by the Department pursuant to 32 Ill. Adm. Code 370.

2) The fee for a Department inspection and testing will be \$55 per radiation machine located in dental offices and clinics and used solely for dental diagnosis, in veterinary offices and used solely for diagnosis, or in offices and clinics of persons licensed under the Podiatric Medical Practice Act of 1987 (225 ILCS-1981) and used solely for diagnosis or therapy. The fee for inspection and testing in all other cases shall be \$86 per radiation machine (Section 25(f) of the Act)

3) If the operator elects to have a nondepartment qualified inspector inspect and test the radiation equipment, the Department will assess an inspection review fee of \$25 per radiation machine. The inspection review fee shall not apply to inspections of radiation machines used for mammography. (Section 25(f) of the Act)

4) The Department shall bill the operator for the appropriate fee as soon as practical after the machine has been inspected and tested:

- A) Fees assessed under this Section shall be due within 60 days of billing. (Section 25(f) of the Act)
- B) If the fee is not paid within 60 days of the initial billing, the Department may order the operator of the installation to cease use of the machines for which the fee is outstanding or take other appropriate enforcement action as provided in Section 36 of the Act. (Section 25(f) of the Act)

c) Operators of radiation installations shall assure that all radiation machines located in that installation are maintained and operated in accordance with standards established by the Department to protect the public health and safety as set forth in 32 Ill. Adm. Code 310, 320, 340, 360, 370, 380, 390, 400, and 401 and 403. Operators shall also assure that all persons who use a radiation machine to administer ionizing radiation to human beings are licensed in accordance with the requirements of 32 Ill. Adm. Code 360.10, or are accredited by the Department, or exempt from such requirements in accordance with 32 Ill. Adm. Code 401.30.

d) Inspection Report Filing Anniversary Date

- 1) Each radiation machine shall be inspected and tested within 6 months after the date of initial installation. Each operator of a radiation installation shall file an application for initial inspection and testing to be performed by either a Departmental inspector or a nondepartment qualified inspector no later than 30 days after the initial installation of a radiation machine(s). The radiation machine(s) shall be inspected and tested in

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accordance with Section 410-50(a) of this Part and radiation inspection reports filed with the Department within 6 months of the date of initial installation. (Section 410-50(a) of the Act) The inspection and testing end date will establish the operator's filing anniversary date for filing subsequent radiation machine inspection reports. All future inspection and testing of the operator's radiation machine(s) must be performed and the radiation inspection report filed either on the filing anniversary date or within the 5-month period immediately preceding the operator's filing anniversary date. Submission of preceding reports within the 5-month period immediately preceding the operator's filing anniversary date will not change the filing anniversary date for subsequent inspection reports.

- 2) If any radiation machine(s) is installed, relocated (i.e., stationary equipment that has been moved), or reactivated within 7 months prior to the operator's inspection report filing anniversary date and if the machine(s) is inspected during the 7-month period, the radiation machine(s) does not have to be reinspected within the 5-month period prescribed in subsection (d)(1) of this Section. The radiation inspection report(s) shall be filed with the Department on or before the operator's inspection report filing anniversary date.
- 3) If any radiation machine(s) totally replaces the operator's radiation machine inventory, the operator's inspection report filing anniversary date will be changed to the end date of the inspection and testing of the radiation machine(s). In accordance with subsection (e)(1) of this Section, inspection reports shall be filed within 6 months from the date of installation of the replacement machine(s).

g) Radiation installations shall be inspected on an operator shall file an application for subsequent inspections to be performed by either a Departmental or nondepartment-qualified inspector in accordance with the following schedule:

- 1) Operators of Class A installations shall be inspected at intervals not exceeding five an application for inspection each 5 years.
- 2) Operators of Class B installations shall be inspected at intervals not exceeding five an application for inspection each 2 years.
- 3) Operators of Class C installations shall be inspected at intervals not exceeding 1 year five an application for inspection annually.
- 4) Applications for inspections of existing radiation machines must be filed with the Department within 6 months of the operator's inspection report filing anniversary date.

f) Operators of radiation installations shall notify the Department within 30 days after the installation of new, used, relocated, or reactivated radiation machines. Inspection and testing of the

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radiation machine(s) shall be performed in accordance with subsection (d) of this Section and radiation inspection report(s) filed with the Department within 6 months after the date of installation/activation of the system(s). The selection of Departmental or nondepartment-qualified inspector which was made pursuant to subsection (b) of this Section, shall also apply to inspections of equipment required by this subsection (f) of this Section. The Department is notified that a change is requested. This Section applies to the relocation or reactivation of a radiation machine(s) that previously had been stored or rendered mechanically or electrically inoperable by the operator.

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(Source: Amended 23 Ill. Reg. _____, effective _____, DEC 18 1998)

Section 410.65 Inspection Fees

a) The annualized fee for inspection and testing shall be based on the rate of \$55 per radiation machine for machines located in dental offices and clinics and used solely for dental diagnosis, located in veterinary offices and used solely for diagnosis, or located in offices and clinics of persons licensed under the Podiatric Medical Practice Act of 1987 and shall be based on the rate of \$80 per radiation machine for all other radiation machines. [420 ILCS 40/25(a)]

b) If the operator elects to have a nondepartment-qualified inspector inspect and test the radiation equipment, the annualized inspection review fee shall be based on the rate of \$25 per radiation machine. This inspection review fee shall not apply to inspections of radiation machines used for mammography. [420 ILCS 40/25(b)]

c) The Department shall bill the operator as soon as practical after January 1 for the appropriate fee.

- 1) Fees assessed under this Section shall be due within 60 days of billing. [420 ILCS 40/25(a)]
- 2) If the fee is not paid within 60 days of the initial billing, the Department may order the operator of the installation to cease use of the machines for which the fee is outstanding or take other appropriate enforcement action as provided in Section 36 of the Act. [420 ILCS 40/25(a)]

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(Source: Amended 23 Ill. Reg. _____, effective _____, DEC 18 1998)

Section 410.70 Separate Installation

Radiation installations shall be defined as any location or facility where radiation machines are used. For purposes of registration and inspection frequency, the Department shall interpret "radiation installation" as follows:

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- a) A facility where one or more radiation machines which are utilized by a given Class as defined in Section 410.40 of this Part are operated by the same person and are located either in a single building or in a group of buildings which are contiguous to one another will be treated as a single radiation installation, except as provided in subsection (b) of this Section below.
- b) If the Department is treating radiation machines which are located in different buildings as being part of a single radiation installation in accordance with subsection (a) of this Section above and the operator seeks to have the facilities treated as separate installations, the Department will consider the facilities as separate radiation installations upon receipt of a written request of the operator.

(Source: Amended 23 Ill. Reg. _____, effective _____, ~~DEC 18 1990~~)

Section 410.80 Change in Operator

Within 30 days after of changing the operator of a radiation installation, the new operator must notify the Department in writing, or by telephone or other electronic means and must file an application for inspection by either a Departmental inspector or by a nondepartment-qualified inspector. Such filing and inspection must be made regardless of the length of time which has passed since the most recent inspection of the radiation installation through the previous operator.

(Source: Amended at 23 Ill. Reg. _____, effective _____, ~~DEC 18 1990~~)

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL TO MEET THE OBJECTION
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Proportionate Share Liability

- 2) Code Citation: 35 Ill. Adm. Code 741

- 3) Section Number: Action:
741.105 Refusal to Modify

- 4) Date Notice of Proposed Rules Published in the Register: September 18, 1998, 22 Ill. Reg. 16425

- 5) Date JCAR Statement of Objection Published in the Register: January 4, 1999, 23 Ill. Reg. _____

- 6) Summary of Action Taken by the Agency: At its meeting on December 15, 1998, the Joint Committee objected to certain subsections of the Pollution Control Board's (Board) proposed rules entitled Proportionate Share Liability (35 Ill. Adm. Code 741) which were published in the Illinois Register on September 18, 1998, 22 Ill. Reg. 16425. The Joint Committee's objection states that it objected to "Section 741.105(f)(2)-(5) of the rulemaking . . . because, by creating exemptions from this Part 741, the rule contravenes Section 58.9(a)(1) of the Environmental Protection Act that broadly applies the concept of proportionate share liability to all remediation actions brought after the effective date of that Section."

The Board respectfully disagrees with the Joint Committee's conclusion. Rather, the Board believes that proportionate share liability is only applicable to those sites and persons not excluded by Section 58.1(a)(2) of the Environmental Protection Act (Act). The Board bases this conclusion on an analysis of Section 58.1 of the Act which is the applicability section for Title XVII. The Board believes that Section 58.1 determines the applicability of all the provisions of Title XVII, including Section 58.9, the proportionate share liability provision. The applicability section (Section 58.1) excludes sites involving federal cleanups or federal regulatory programs that Illinois implements. The Board therefore believes that Section 58.9 or proportionate share liability applies only to the remaining universe of sites.

The Board believes that this interpretation is consistent both with the General Assembly's intent and the language of the Act as a whole. The legislative debates on Title XVII certainly show that the General Assembly intended the various federal sites listed in Section 58.1(a)(2) to be excluded from the proportionate share scheme. For example, in response to a question about proportionate share liability, Representative Persico, Chairman of the House Energy and Environment Committee and the House sponsor of the underlying bill for Title XVII, stated:

We exempt out of this particular Bill any federal or superfund site .

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL TO MEET THE OBJECTION
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

. . . 89th Ill. Gen. Assem., House Proceedings, May 19, 1995, at 47.

Similarly, Senator Mahar, Chairman of the Senate Environmental Committee and the Senate sponsor of House Bill 544 stated:

[T]he legislation applies to all remedial activities, excluding specifically noted activities governed by federal law 89th Ill. Gen. Assem., Senate Proceedings, May 19, 1995, at 64.

The language of the Act as a whole makes it clear that the General Assembly intended Illinois to administer the federal solid waste, hazardous waste, and underground storage tank programs. See 415 ILCS 5/4, 20, 22.12, 57 (1996). The General Assembly did so because it wanted to avoid duplicative, overlapping, or conflicting State and federal programs. But, if proportionate share liability is applied to sites regulated under these programs, the United States Environmental Protection Agency has stated that it may withdraw Illinois' authority to administer these programs. Illinois also could lose federal funding to implement these programs. The Board's interpretation of proportionate share liability therefore preserves Illinois' authority to administer the federal programs.

Finally, the Board's interpretation is good public policy. Under the Board's approach, proportionate share liability will be applied without jeopardizing Illinois' regulatory programs.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF FAILURE TO REMEDY
ILLINOIS COMMERCE COMMISSION

1) Heading of the Part: Electric Reliability

2) Code Citation: 83 Ill Adm Code 411

3) Section Numbers: 411.130
Action: Objection

4) Notice of Proposal published in Illinois Register: 6/26/98

5) Date JCAR issued Statement of Objection: 10/20/98

6) Summary of Action taken by the Agency: Refusal to Modify or Withdraw Rulemaking

7) JCAR action: The rule allows utility-submitted, Commission-approved tariffs for vegetation management practices to preempt contrary municipal ordinances. The Joint Committee objected to this provision because the Commission lacked specific statutory authority to preempt municipal ordinances.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF FAILURE TO REMEDY
ILLINOIS COMMERCE COMMISSION

- 1) Heading of the Part: Non-Discrimination in Affiliate Transactions for Electric Utilities

2) Code Citation: 83 Ill Adm Code 450

3) Section Numbers: Action: Objection

450.10 450.20
450.25 450.30
450.40 450.50
450.60 450.70
450.80 450.85
450.90 450.100
450.110 450.120
450.130 450.120
450.150 450.160

- 4) Notice of Proposal published in Illinois Register: 6/26/98

5) Date JCAR issued State of Objection: 10/20/98

- 6) Summary of Action taken by Agency: Refusal to Modify or Withdraw the Rulemaking

7) JCAR Action: The rule requires utilities to maintain logs detailing interactions between themselves and their affiliates in competition with APES. The Joint Committee objected to these provisions because they were unduly burdensome to justify the public interest served.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF WITHDRAWAL OF PROPOSED RULEMAKING
FOR FAILURE OF AGENCY TO RESPOND TO OBJECTIONS
OF THE JOINT COMMITTEE

DEPARTMENT OF FINANCIAL INSTITUTIONS

- 1) Heading of the Part: Schedules of Maximum Rates to be Charged for Check Cashing and Writing of Money Orders by Community and Ambulatory Currency Exchanges

2) Code Citation: 38 Ill Adm Code 130

3) Date Proposed Rulemaking Originally published in Illinois Register: 4/3/98

4) Date Agency Received Joint Committee Statement of Objection: 8/24/98

5) Date of Expiration of 90 Day Period for Agency Response to Statement of Objection: 11/22/98

Pursuant to Section 5-110(f) of the Illinois Administrative Procedure Act:

Failure of an agency to respond to the Joint Committee's Objection to a proposed rule, amendment or repealer, within 90 days of receipt of the objection shall constitute withdrawal of the rule in its entirety. The Joint Committee shall submit a notice to that effect to the Secretary of State which shall be published in the next available issue of the *Illinois Register*.

Because the Department of Financial Institutions has failed to respond to the objections of the Joint Committee within the statutory period, the above-mentioned rulemaking is, by operation of law, withdrawn.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF LABOR

Heading of the Part: Health and Safety

Code Citation: 56 Ill Adm Code 350

Section Numbers: 350.280

Date Originally Published in the Illinois Register: 5/15/98

22 Ill Reg 8283

At its meeting on December 15, 1998, the Joint Committee on Administrative Rules objected to the rulemaking of the Department of Labor entitled Health and Safety (56 Ill Adm Code 350; 22 Ill Reg 8283) because it is not clear as to whether the requirement for 2 in/2 out is applied exponentially; it is not clear as to whether firefighters are required to follow the 2 in/2 out policy when an alarm has sounded or a fire reported, but there is no physical evidence from outside the building that a fire is actually in progress, as determined by the firefighters on the scene, and it does not include the standards necessary to substantiate the department's planned enforcement of the 2 in/2 out policy. While the Committee supports the concept of 2 in/2 out, this lack of clarity and completeness in the rulemaking, and the agency's reported intention to rely on non-rule documents in its enforcement of 2 in/2 out, are contrary to the requirements of the Illinois Administrative Procedure Act and good public policy.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

POLLUTION CONTROL BOARD

Heading of the Part: Proportionate Share Liability

Code Citation: 35 Ill Adm Code 741

Section Numbers: 741.100 741.105
741.110 741.115
741.120 741.125
741.130 741.135
741.140 741.145
741.200 741.205
741.210 741.300
741.305 741.310
741.315 741.320
741.325 741.330

Date Originally Published in the Illinois Register: 9/18/98

22 Ill Reg 16425

At its meeting on December 15, 1998, the Joint Committee on Administrative Rules objected to Section 741.105(f)(2)-(5) of the rulemaking of the Pollution Control Board entitled Proportionate Share Liability (35 Ill Adm Code 741; 22 Ill Reg 16425) because, by creating exemptions from this Part, the rule contravenes Section 58.9(a)(1) of the Environmental Protection Act that broadly applies the concept of proportionate share liability to all remediation actions brought after the effective date of that Section.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

ILLINOIS DEPARTMENT OF HUMAN RIGHTS
JANUARY 1999 REGULATORY AGENDA
a) Part(s) (Heading of Code Citation): Department Purchasing Procedures; 44 Ill. Adm. Code 760.

- 1) Rulemaking:
 - A) Description: The Department intends to repeal this Part because the Illinois Procurement Code addresses the subject matter of these regulations.
 - B) Statutory Authority: Implementing and authorized by the Illinois Procurement Code [30 ILCS 500/1-5].
 - C) Scheduled meetings/hearing date: None scheduled at this time.
 - D) Date agency anticipates First Notice: March 16, 1999.
 - E) Affect on small businesses, small municipalities or not for profit corporations: No anticipated effect.
 - F) Agency contact person information:

Name: David T. Rothal
Address: Illinois Department of Human Rights
100 West Randolph Street
Suite 10-100
Chicago, IL 60601
Telephone: 312-814-6242
T.D.D. : 312-263-1579

- G) Related rulemaking and other pertinent information: None.
- b) Part(s) (Heading of Code Citation): Housing Discrimination; 71 Ill. Adm. Code 2520.

- 1) Rulemaking:
 - A) Description: These amendments will clarify the exemption provided in Section 3-106(I) of the Act. [775 ILCS 5/3-106(I)].
 - B) Statutory Authority: Implementing Section 3-106 and authorized by Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/3-106 and 7-101 (A)].
 - C) Scheduled meetings/hearing date: None scheduled at this time.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
NOTICE OF FAILURE TO REMEDY
DEPARTMENT OF TRANSPORTATION

- 1) Heading of the Part: Contract Procurement
- 2) Code Citation: 44 Ill Adm Code 660
- 3) Section Numbers: Action: Objection
660.100(c)
- 4) Notice of Proposal published in Illinois Register: 6/5/98
- 5) Date JCAR issued Statement of Objection: 10/20/98
- 6) Summary of Action taken by the Agency: Refusal to Modify or Withdraw Rulemaking
- 7) JCAR action: The rule requires publication of change orders only if they exceed \$30,000 (the small purchase maximum), while Sec. 15-25 of the Procurement Code requires the publication of all change orders. DOT has sought to have this matter clarified through amendments to the Code via consultation with sponsors of the Code and the Procurement Policy Board. However, no action was taken during the recent veto session. Given the fact that the Procurement Code has not yet been amended, the Department's rulemaking still is statutorily deficient under Section 15-25(a) of the Procurement Code.

ILLINOIS DEPARTMENT OF HUMAN RIGHTS

JANUARY 1999 REGULATORY AGENDA

- D) Date agency anticipates First Notice: May 1, 1999.
- E) Affect on small businesses, small municipalities or not for profit corporations: All businesses involved in real estate transactions are subject to the Illinois Human Rights Act and its regulations.
- F) Information concerning the regulatory agenda shall be directed to:

Name: David T. Rothal
Address: Illinois Department of Human Rights
100 West Randolph Street
Suite 10-100
Chicago, IL 60601
Telephone: 312-814-6242
T.D.D. : 312-263-1579

- G) Related rulemaking and other pertinent information: None.

- c) Part(s) (Heading of Code Citation): Procedures Applicable to All Agencies; 44 Ill. Adm. Code 750.

1) Rulemaking:

- A) Description: The Department intends to amend its existing regulations in order to clarify the regulations and to update statutory citations.
- B) Statutory Authority: Implementing Section 2-105 authorized by Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/2-105 and 7-101(A)].
- C) Scheduled meetings/hearing date: None scheduled at this time.
- D) Date agency anticipates First Notice: June 16, 1999.
- E) Affect on small businesses, small municipalities or not for profit corporations: All public contractors and eligible bidders are subject to the Illinois Human Rights Act and its regulations on public contracts.
- F) Information concerning the regulatory agenda shall be directed to:

ILLINOIS DEPARTMENT OF HUMAN RIGHTS

JANUARY 1999 REGULATORY AGENDA

Name: David T. Rothal
Address: Illinois Department of Human Rights
100 W. Randolph Street
Suite 10-100
Chicago, IL 60601
Telephone: 312/814-6242
T.D.D.: 312/263-1579

- G) Related rulemaking and other pertinent information: None.

DEPARTMENT OF TRANSPORTATION

JANUARY 1999 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Business Logo Signing Program; 92 Ill. Adm. Code 542

1) Rulemaking:

A) Description: This Part was established to regulate the use of business logos displayed along various Interstate highways. It established standards, specifications and financial responsibility for a program of placing business logos on specific service panels. The displayed business logos provide motorists with travel-related directional information to facilities offering gas, food, lodging and camping. The Department will propose technical changes to close loopholes and to address things not previously covered in the original Part.

- B) Statutory Authority: 225 ILCS 440/4.08 and 14.01 and 605 ILCS 5/4-201.1

- C) Scheduled meeting/hearing date: None scheduled

- D) Date agency anticipates First Notice: Within six months

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will affect small businesses and possibly not-for-profit organizations. Small municipalities will not be impacted by this rule.

F) Agency contact person for information:

Name: Christine Caronna-Beard, Rules Manager
Address: Illinois Department of Transportation
Office of Chief Counsel, Room 300
2300 South Dirksen Parkway
Springfield, Illinois 62764
Telephone: 217-782-3215

- G) Related rulemakings and other pertinent information: None

- b) Part(s) (Heading and Code Citation): Minimum Safety Standards for Construction of Type I School Buses; 92 Ill. Adm. Code 440

1) Rulemaking:

A) Description: The Department will revise this Part pursuant to a request from industry to modify the exhaust discharge requirements around emergency doors. The incorporations by reference included in this Part will also be updated.

- B) Statutory Authority: Implementing Article VIII of Chapter 12 and

DEPARTMENT OF TRANSPORTATION

JANUARY 1999 REGULATORY AGENDA

- authorized by Section 12-812 of the Illinois Vehicle Code [625 ILCS 5/Ch. 12, Article VIII].

- C) Scheduled meeting/hearing date: None scheduled

- D) Date agency anticipates First Notice: Within six months

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will impact small businesses and municipalities that own or operate school buses.

- F) Agency contact person for information:

Name: Christine Caronna-Beard, Rules Manager
Address: Illinois Department of Transportation
Office of Chief Counsel, Room 300
2300 South Dirksen Parkway
Springfield, Illinois 62764
Telephone: 217-782-3215

- G) Related rulemakings and other pertinent information: None

- c) Part(s) (Heading and Code Citation): Minimum Safety Standards for Construction of Type II School Buses; 92 Ill. Adm. Code 442

1) Rulemaking:

A) Description: This rulemaking will establish standards for crossing control arms as required by P.A. 90-108 as well as update and correct the Part.

B) Statutory Authority: Implementing Article VIII of Chapter 12 and authorized by Section 12-807.2 of the Illinois Vehicle Code (as added by P.A. 90-108, effective July 14, 1997)[625 ILCS 5/Ch. 12, Article VIII, as amended by P.A. 90-108].

- C) Scheduled meeting/hearing date: None scheduled

- D) Date agency anticipates First Notice: Within six months

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will affect small businesses that own or operate school buses in Illinois and, also, small businesses that manufacture crossing control arms for sale or distribution.

- F) Agency contact person for information:

DEPARTMENT OF TRANSPORTATION

JANUARY 1999 REGULATORY AGENDA

Name: Christine Caronna-Beard, Rules Manager
Address: Illinois Department of Transportation
Office of Chief Counsel, Room 300
2300 South Dirksen Parkway
Springfield, Illinois 62764
Telephone: 217-782-3215

G) Related rulemakings and other pertinent information: None

- d) Part(s) (Heading and Code Citation): Selection of Non-Architect-Engineering Consultant Firms, 44 Ill. Adm. Code 635; Railroad Maintenance By Contract, 44 Ill. Adm. Code 655; Highway Construction By Contract, 44 Ill. Adm. Code 675; Airport Construction Contracts, 44 Ill. Adm. Code 685

l) Rulemaking:

- A) Description: These Parts were promulgated in compliance with the Illinois Purchasing Act. That Act was repealed and replaced by the Illinois Procurement Code. The Department will repeal these procurement Parts since the provisions contained in them are now covered under a newly adopted rule found at 44 Ill. Adm. Code 660 entitled "Contract Procurement". The Department recently adopted Part 660 in compliance with the Illinois Procurement Code [30 ILCS 500].

- B) Statutory Authority: Formerly, the Illinois Purchasing Act.

- C) Scheduled meeting/hearing date: None scheduled

- D) Date agency anticipates First Notice: Within two months

- E) Effect on small businesses, small municipalities or not for profit corporations: No effect since Part 660 will replace these repealed rules.

- F) Agency contact person for information:

Name: Christine Caronna-Beard, Rules Manager
Address: Illinois Department of Transportation
Office of Chief Counsel, Room 300
2300 South Dirksen Parkway
Springfield, Illinois 62764
Telephone: 217-782-3215

- G) Related rulemakings and other pertinent information: 44 Ill. Adm. Code 660, Contract Procurement. Also, disclosure requirements are found in the Department's Prequalification rules found at 44 Ill.

DEPARTMENT OF TRANSPORTATION

JANUARY 1999 REGULATORY AGENDA

Adm. Code 650:

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of December 15, 1998 through December 21, 1998 and have been scheduled for review by the Committee at its January 12, 1999 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Blvd., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
1/28/99	Department of Human Services, Public Information, Rulemaking, Department Organization (2 Ill Adm Code 1175)	10/16/98 22 Ill Reg 18183	1/12/99
1/28/99	Department of Public Aid, Medical Assistance Program (89 Ill Adm Code 120)	9/18/98 22 Ill Reg 16441	1/12/99
1/29/99	Department of Human Services, Eligibility (89 Ill Adm Code 682)	10/16/98 22 Ill Reg 18146	1/12/99
1/30/99	Department of Natural Resources, Nuisance Wildlife Control Permits (17 Ill Adm Code 525)	8/21/98 22 Ill Reg 15158	1/12/99
1/31/99	Department of Human Services, Prescreening (89 Ill Adm Code 681)	10/16/98 22 Ill Reg 18154	1/12/99
1/31/99	Department of Human Services, Customer Rights and Responsibilities (89 Ill Adm Code 677)	10/2/98 22 Ill Reg 17199	1/12/99
2/3/99	Department of Human Services, Individual Care Grants for Mentally Ill Children (59 Ill Adm Code 135)	10/2/98 22 Ill Reg 17205	1/12/99

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES
CONTINUED FROM PAGE 267 IN THIS ISSUE OF THEREGISTER

Life and Accident and Health Insurance Companies		
	1 Premium	2 Premium Data
Private Tax Calculation		
1 Life Insurance Premiums (Page 21, Column 6, Line 1 per Deductions)		
2 DEDUCTIONS		
a Dividends Paid in Cash		
b Dividends Applied in Reduction of Premiums		
c Return Premiums		
d Total Deductions (Sum of Lines 1 through 3)		
3 Total Deductions (Sum of Lines 1 through 3)		
4 Net Direct Life Premium Tax (Line 3, Column 1 + Column 2)		
5 Accident and Health Premiums (Page 21, Column 2, Line 25, less the amount of 21 per Annual Statement, Line 111a Deductions 31, 1986)		
6 DEDUCTIONS		
a Dividends Paid in Cash or Credited to Policyholders on Premiums received (Sum of Lines 1 through 3)		
b Total Deductions (Sum of Lines 1 through 3)		
7 Net Direct Life Premium Tax (Line 5, Column 1 + Column 2)		
8 Net Accident and Health Premium Tax (Line 7, Column 1 + Column 2)		
9 Total Premium Tax Before Credits (Column 3, Line 4 plus 8)		
10 Less Credits to the Privilege Tax		
11 Corporate Net Deduction Income Tax		
12 INTERGRADATION EXCESS		
Complete Lines 10 thru 11 of Corporate and Replacement Income Taxes are not paid on a Unitary Method. If paid on a Unitary Method, enter 0.00. U-1 Schedule and complete as directed		
13 ILLINOIS CORPORATE INCOME TAX PAYMENTS		
110a 1997 Final Payment		
110b 1995 Total Quarterly Payments		
110c Other Payments paid during Calendar Year 1996		
110d Total Corporate Income Tax Payments Received		
14 ILLINOIS PERSONAL PROPERTY REPLACEMENT CORPORATE INCOME TAX PAYMENTS		
111a 1997 Final Payment		
111b 1995 Total Quarterly Payments		
111c Other Payments paid during Calendar Year 1996		
111d Total Personal Property Replacement Income Tax Payments Received		
15a TDAs		
16 Total NET INCOME TAXES (10e plus 11e)		
17 Unpaid Member Income Tax Other (Schedule U-1)		
18 Total Life Insurance Premiums and Accident and Health Insurance Premiums (Sum of Lines 1 through 5) less the Premium (Line 14 + 15a)		
19 Integration Credit in excess of 1.5% Net Taxable		
20 Integration Credit Amount (Line 12 or 13 minus Line 15, whichever enters zero)		
21 Integration Credit Amount (Line 9 minus Line 16) (cannot be less than zero)		

Section 2515 ILLUSTRATION A Annual Privilege and Retailatory Tax Return

Illinois Department of Insurance
200 North LaSalle Street
Springfield, IL 62767-0001



State of Illinois
1998 Privilege and Retailatory Tax Statement for Health Maintenance Organizations, Limited
Health Service Organizations, Voluntary Health Service Plans and Dental Service Plans
Business during the Calendar Year 1998
Due: March 15, 1999

Federal Employer Identification Number _____ NAC _____
with principal office located at _____
incorporated under the laws of the State of _____ as required by and in
accordance with "215 ILCS 5/410" of the Illinois Compiled Statutes
Mailing address, if other than principal office location shown above _____
Contact person _____ Phone () _____

Instructions

- Important Notice:** The FEIN must be on this statement to ensure proper posting to your company account.
- The Privilege and Retailatory Tax Statement must be filed and the taxes due must be paid on or before March 15, 1999. **The official filing date is the U.S. Postal date.**
 - Separate checks and statement is requested for each company of an insurance group.
 - The Department of Insurance cannot issue cash refunds of overpayments. Overpayments should be applied to all future privilege and retailatory tax liabilities only.
 - No authority exists for granting any extension of time for filing or payment.
 - The payment received will be subject to audit and subsequent adjustments if necessary.
 - Any penalties to be levied will be assessed as provided by "215 ILCS 5/412," Illinois Compiled Statutes.
 - File only one original statement only. The Illinois Department of Insurance will not accept computerized, fax or any facsimile tax statements. Companies must use the prescribed form furnished by the Department. Failure to do so will subject your company to penalties per "215 ILCS 5/412" of the Illinois Compiled Statutes.
 - Remittance should be made payable to the **Director of Insurance** and mailed with the completed tax statement to: **Attention: Tax and Fiscal Services Section, Illinois Department of Insurance, 320 West Washington Street, Springfield, Illinois 62767-0001.**

Do not mail checks or forms with the Annual Statement

Important Notice: Companies who do not file a statement as required under the Illinois Compiled Statutes Insurance Laws: Failure to provide this statement will result in a \$100 fine per day. This form has been approved by the Forms Management Center.

IL-Form-2515-A

Payment Summary	Column 1	Column 2
1. Amount due as Privilege Tax (Line 17, Page 3)		
2. Amount due as Retailatory Tax (Line 11, Page 4)		
3. Total Privilege and Retailatory Tax (Line 1 plus 2)		
4. Less Privilege Tax Estimated Installments	999,000.00 XXXXX	
4b. April 15, 1998		
4c. September 15, 1998		
4d. December 15, 1998		
4e. Total (Add 4a thru 4d)		
5. Less Retailatory Tax Quarterly Estimates		
5a. April 15, 1998		
5b. June 15, 1998		
5c. September 15, 1998		
5d. December 15, 1998		
5e. Total (Add 5a thru 5d)		
6. Total Estimated Payments (Lines 4e plus 5e)		
7. Less: Prior Year End Overpayment (tax reported on prior year tax return)		
8. Total Credits (Line 6 plus line 7)		
9. Balance Due (Line 3 less Line 8)		
*10. Failure to file tax return penalty (\$200 per month or 5% of tax, whichever is greater)		
*11. Failure to pay tax penalty (5% of tax due)		
*12. Interest on the tax paid after due date per IRS rate, minimum 12%		
13. Total remittance with tax return (sum of Lines 9, 10, 11 and 12)		
*14. Tax Overpayment (If Line 8 is greater than Line 9)		
*Calculates per "215 ILCS 5/412" of the Illinois Compiled Statutes.		
*All overpayments must be applied to future privilege or retailatory tax liabilities only.		

Name _____ Title _____ of the _____ (Company)
(Signature of Corporate Officer)
 declares, under penalties of perjury that the foregoing Statement (including the accompanying schedules) has been examined by him, and to the best of his knowledge and belief is true, correct and complete.

DATE: _____

Only Complete the Part Applicable to Your License.

Type of Organization or Plan	Premium
Health Maintenance Organizations	
Premium (Major Medical Only) - 1996	
Net taxable premium per Schedule T of the Annual Statement Page 60, Line 14, Columns 4 and 5.	
Limited Health Service Organizations	
Net taxable premium per Schedule T of the Annual Statement Page 56, Line 14, Columns 4 and 5.	
Voluntary Health Service Plans	
Net taxable premium per Schedule T of the Annual Statement Page 56, Line 14, Columns 4 and 5.	
Dental Service Plans	
Net taxable premium per the Annual Statement Page 7, Line 4, Column 1.	

Privilege Tax Calculation			
1	Premium	2	Premium Rate
1. PREMIUMS			
2. NET PREMIUM TAX (Column 1, Line 1 + Column 2)			
Less Credits to the Privilege Tax			
CORPORATE & REPLACEMENT INCOME TAX INTERGRADATION EXCESS			
Complete Lines 3 thru 4 of Corporate and Replacement Income Tax and enter the amount on a separate sheet of paper and attach to the Uninsured Method, go to U-7 Schedule and complete as directed.			
3. ILLINOIS CORPORATE INCOME TAX PAYMENTS			004
3a. 1997 Final Payment			
3b. 1998 Total Quarterly Payments			
3c. Other Payments paid during Calendar Year 1998			
3d. Less: State Income Tax Refunds Received			
3e. 1998 TOTAL			
4. ILLINOIS PERSONAL PROPERTY REPLACEMENT INTERGRADATION EXCESS			
4a. 1997 Final Payment			
4b. 1998 Total Quarterly Payments			
4c. Other Payments paid during Calendar Year 1998			
4d. Less: Replacement State Income Tax Cash Refunds Received			
4e. TOTAL			
5. TOTAL NET INCOME TAXES (Lines 3e + 4e, Column 1)			
6. Uninsured Member Income Tax Offset (Schedule U-1)			
7. Intergration Offset is excess of 1.5% Net Taxable Premium (Line 1, Column 1 + 1.5%)			
8. Intergration Offset Amount (Line 5 or 6 minus Line 7, if negative enter -0-)			
9. NET PREMIUM TAX (Line 2, Column 3 minus Line 8)			

Computation of Retaliatory Taxes

Under 215 ILCS 5/444 and 5/444.1, of the Illinois Compiled Statutes, when the laws of any other state require of companies domiciled in Illinois the payment of penalties, fees, charges or taxes greater than those required in the aggregate for like purposes under the laws of Illinois by companies doing business in such state, the Director of Insurance is required to impose comparable requirements on members of the State of Illinois. All insurance related taxes and fees, including premium taxes, based on the State of Illinois incorporation requirements, should be calculated below with the total carried forward to Page 6, Line 2 under Column 2.

Retaliatory Tax Calculation	Column 1 State of Illinois Basis	Column 2 State of Incorporation Basis
1. Annual Statement Filing Fee	\$100.00	
2. Certificate of Authority Fee	\$100.00	
3. Fire Marshal Tax		
4. Fire Department Tax (proof of payment must be attached)		
5. Financial Regulation Fee		
6. Policy Form Filing Fee		
*7a. Illinois Corporate & Replacement Income Taxes Paid		XXXXXXXXXXXX
7c. Illinois Life & Health Guaranty Fund Credit (per Association's official notice)		XXXXXXXXXXXX
7d. Other State of Illinois Taxes and Fees per Article XXV	XXXXXXXXXXXX	XXXXXXXXXXXX
7e. State of Incorporation income tax paid without reduction, if any is otherwise allowed for a similar association credit as provided in Section 25.5-50(c)(5).	XXXXXXXXXXXX	
8. Privilege Premium Tax Franchise Tax, etc.		
9. Total Illinois Basis		XXXXXXXXXXXX
10. Total State of Incorporation Basis	XXXXXXXXXXXX	
11. Total Retaliatory Tax Due (Line 10 minus Line 9, balance cannot be less than -0-)	XXXXXXXXXXXX	

*If Illinois Corporate and Replacement income taxes are paid on a unitary method, please complete Schedule U-1 in detail. Proof of payment (cancelled checks and IL1120) must be attached to verify basis.

Income Tax Offset Based on Unitary Method of Corporate and Replacement Tax
Allocated by each Company's Illinois Premium Written (including annuities)
to the Unitary Group's Total Illinois Premium Written (Schedule U-1)

1	2	3	4	5	6	7
	Company Name of Each Unitary Member	Company FEIN	Illinois Premium	Percentage Allocation	Tax Offset Offset Allocation by %	Refund Allowed
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15.1 Column Totals						

Taxes Paid By (Name of Company and the FEIN of Taxpayer)

Total Taxes Paid _____
Total Refund Issued _____
Net Available for Offset _____
(This amount will be verified per the Department of Revenue records.)

Procedure to Determine the Income Tax Offset on the Unitary Method

We will use Schedule U-1 to determine the income tax offset for companies using the Unitary Method. The allocation of the total income tax paid will be based on the Illinois premium written (including annuities) for each individual company. The total income tax paid for the entire unitary group will be allocated to the unitary group. The refund must also be allocated among the individual companies. If a member of the unitary group received a refund during the calendar year, the refund must also be allocated among the members of the unitary group. Only the net amount is allowed.

Each unitary group must complete Schedule U-1 to be allocated the offset. Any unitary group that does not complete Schedule U-1 will not be allowed to claim the income tax offset and replacement income taxes in the allocation of the privilege and retaliatory taxes.

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

ILLINOIS REGISTER
DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

Section 2515 ILLUSTRATION A Quarterly Tax Statement

Illinois Department of Insurance
320 West Washington Street
Springfield, IL 62767-4001



State of Illinois
Privilege and Retaliatory Tax Statement
All companies whose annual tax for the preceding calendar year was less than \$5,000 need not file this installment.

Federal Employer Identification Number _____		1998 Calendar Year Indicate which filing <input type="checkbox"/> April 15, 1999 <input type="checkbox"/> June 15, 1999 <input type="checkbox"/> September 15, 1999 <input type="checkbox"/> December 15, 1999	
By the _____ Insurance Company		Date _____	
Of _____ City _____ State _____ ZIP Code _____		Date _____	
Privilege Tax			
PART A-BASED ON PRIOR YEAR TOTAL TAX			
1 1998 Privilege Tax from Page 6, Line 1 of Privilege and Retaliatory Tax Statement _____			
2 Installment amount due is 1/4 of Line 1 _____			
PART B-BASED ON CURRENT CALENDAR YEAR			
3 1999 Estimated Privilege Tax on taxable premiums _____			
3a Less: Estimated Fire Department Taxes to be paid in 1999, if applicable _____			
3b Less: Estimated reintegration 1999 excess income tax Other, if applicable _____			
4 Net Privilege Tax for 1999 (Line 3 minus sum of 3a and 3b) _____			
5 60% of Line 4 to be paid in 1999 _____			
6 Installment amount due is 1/4 of Line 5 _____			
Retaliatory Tax			
PART A-BASED ON PRIOR YEAR TOTAL TAX			
7 1998 Retaliatory Tax from Page 6, Line 2 of Privilege and Retaliatory Statement _____			
8 Installment amount due is 1/4 of Line 7 _____			
PART B-BASED ON CURRENT CALENDAR YEAR			
9 60% of 1999 Estimated Retaliatory Tax _____			
10 Installment amount due is 1/4 of Line 9 _____			
Payment			
11 Amount due as a Privilege Tax from Line 2 of Line 6 _____			
12 Amount due as a Retaliatory Tax from Line 6 of Line 10 _____			
13 Amount due this installment, Line 11 plus Line 12 _____			
14 Less: Previous Privilege or Retaliatory Tax overpayment (Amount may not be more than Line 13) _____			
15 Amount of tax payment due this installment, Line 13 minus Line 14 _____			
I certify that this is a true, correct and complete Declaration of taxes due. (Print name) _____			
Signature of Company Officer _____		Date _____	
Name _____		Title _____	
(Signature of Corporate Officer)		_____ of the _____ (Company)	
declares under penalties of perjury that the foregoing Statement (including the accompanying schedules) has been examined by him, and to the best of his knowledge and belief is true, correct and complete.			

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DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

Section 2515 ILLUSTRATION B Supplemental Retaliatory Tax Return

SUPPLEMENTAL RETALIATORY TAX RETURN

Federal Employer Identification Number (FEIN#) _____ Insurance Company _____

Name of Company _____
 Street and Number _____ City _____ State _____ Zip Code _____

For the tax period ending the last day of December, _____ as required by Section 444.1(4) of the Insurance Code (215 ILCS 5/444.1(4)) and 50 Ill. Adm. Code 2515.70 this Supplemental Retaliatory Tax Return is being filed due to the protested privilege tax in the amount of _____ for this same tax period

SUPPLEMENTAL RETALIATORY TAX

1. Total State of Illinois Basis as reported in the Retaliatory Tax Return filed pursuant to 50 Ill. Adm. Code 2515: (As shown in 2515, Illustration A page 4 line 9) \$ _____
2. Total State of Incorporation Basis as reported in the Retaliatory Tax Return filed pursuant to 50 Ill. Adm. Code 2515: (As shown in 2515, Illustration A page 4 line 10) \$ _____
3. Total Retaliatory Tax due as reported in the Retaliatory Tax Return filed pursuant to 50 Ill. Adm. Code 2515: (As shown in 2515, Illustration A page 4 line 11) \$ _____
4. Protested Privilege Tax Amount \$ _____
5. Adjusted State of Illinois Basis for protested amount (Subtract Line 4 from Line 1) \$ _____
6. Total Supplemental Retaliatory Tax due (Subtract Line 5 from Line 2) (Line 6 is the amount, if any, of supplemental retaliatory tax due and owing for the tax period in question if the protest were upheld. If Line 5 is greater than Line 2 no Supplemental Retaliatory Tax is due.) \$ _____

Certified for deposit to General Revenue the amount shown on line 6 \$ _____

I, _____ of the _____ Company Name _____ declare under penalties of perjury that the foregoing Supplemental Retaliatory Tax Return has been examined by me, and to the best of my knowledge and belief is true, correct and complete.

Rules acted upon during the calendar quarter from Issue 1 through Issue 16 are listed on the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repeated. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or judale@catgate.sos.state.il.us (Internet address).

PROPOSED

23-1501-1
 35-808-1
 35-809-1
 35-81-1
 68-1320-1
 53-451-1
 89-113-1
 89-140-1
 89-676-1
 89-684-1
 89-686-1

ADOPTED

17-2045
 32-401-1
 32-110-1
 41-126-1
 50-2803-1
 50-2805-1
 50-2810-1
 50-2815-1
 50-2820-1
 50-2825-1
 50-2770-1
 59-194-1
 80-506-1

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GEORGE H. RYAN
SECRETARY OF STATE
INDEX DEPARTMENT
111 E. MONROE
SPRINGFIELD, IL 62756



